

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NVIDIA CORPORATION,
Petitioner,

v.

SAMSUNG ELECTRONICS COMPANY, LTD.,
Patent Owner.

Case IPR2015-01318
Patent 8,252,675 B2

Before JAMESON LEE, PATRICK R. SCANLON, and
JUSTIN BUSCH, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

A telephone conference call was held on September 28, 2015. The participants were respective counsel for the parties and Judges Lee, Scanlon, and Busch. The subject matter for discussion is Petitioner's request for authorization to file a Motion to Correct "clerical error" in its Petition pursuant to 37 C.F.R. § 42.104(c). Patent Owner already has filed its Preliminary Response on September 10, 2015.

At the outset, we explained that any motion by Petitioner to correct a clerical error in the petition under 37 C.F.R. § 42.104(c) cannot change the substance of the petition or require a substantive change in any responsive paper that already has been filed by Patent Owner. Counsel for Petitioner expressly agreed with that premise.

During the conference call, counsel for Petitioner identified the purported clerical error as the reproduction, on pages 17 and 32 of the Petition, of Figure 18(2) of the prior art reference identified as "Yamakawa," where Figure 17(2) of Yamakawa should have been reproduced. Counsel for Petitioner points out that the textual arguments in the Petition following the reproduced Figure consistently refer, correctly, to Figure 17(2) of Yamakawa, and not Figure 18(2). Counsel for Petitioner indicates that Petitioner also seeks to correct similar mistakes on pages 25 and 47 of the declaration Petitioner relies on, i.e., Ex. 1006.

Patent Owner agrees that reproduction of Figure 18(2) is a mistake, based on the textual references to Figure 17(2), but Patent Owner did not agree that the mistake was a clerical or typographical error. We asked counsel for Patent Owner how Patent Owner responded in its Preliminary Response to Petitioner's "mistake," i.e., whether Patent Owner responded by addressing Figure 17(2), or Figure 18(2), as the intended figure. Counsel for

Patent Owner answered that Patent Owner did both in the Preliminary Response.

Under these circumstances, no formal correction is necessary. It is sufficient simply to note for the record:

(a) that Petitioner represents in the conference call that the figure reproduced on pages 17 and 32 of its Petition and on pages 25 and 47 of Exhibit 1006 is incorrectly taken from Yamakawa's Figure 18(2), and should have been Yamakawa's Figure 17(2);

(b) that Petitioner retracts any perceived reliance on Yamakawa's Figure 18(2) in those instances and confirms reliance on Yamakawa's Figure 17(2), consistent with the text in its Petition and in the declaration of its witness; and

(c) that Patent Owner recognizes the noted discrepancy between the textual arguments and the reproduced drawing as a "mistake" resulting from Petitioner's reproducing Yamakawa's Figure 18(2), rather than Yamakawa's Figure 17(2), and has addressed, in its Preliminary Response, both alternatives, i.e., (1) treating Petitioner as relying on Yamakawa's Figure 18(2) rather than Yamakawa's Figure 17(2), and (2) treating the reproduced figure as a mistake and assuming that Petitioner in these instances was referring to Yamakawa's Figure 17(2), consistent with the written text.

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Order

It is

ORDERED that a motion to correct alleged clerical error in the Petition and in Exhibit 1006 is unnecessary and not authorized; and

FURTHER ORDERED that, if either party believes any characterization of its position is inaccurate, that party has no more than three business days to initiate a joint telephone conference call with the Board to discuss the matter.

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