

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Bank of America, N.A.
Petitioner,

v.

Nant Holdings IP, LLC
Patent Owner.

Case No. IPR2021-01080
U.S. Patent No. 8,463,030

Motion to Correct Clerical or Typographical

Errors Under 37 C.F.R. § 42.104(c) and to Submit a Corrected Petition

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I. Introduction

Petitioner moves the Board under 37 C.F.R. § 42.104(c) to correct clerical or typographical errors in its Petition requesting *inter partes* review of U.S. Patent No. 8,463,030, Case No. IPR2021-001080. To a reader of the Petition, it would be self-evident that the errors were inadvertent. No new prior art or new substance is being added. And there are no material changes to the analysis within the Petition. Additionally, since Petitioner's proposed correction will not change the substance of the analysis within the Petition, the Patent Owner is not required to do any additional analysis on the merits, or otherwise, in its preliminary response once these errors are corrected. Accordingly, Petitioner moves this Board for leave to file a corrected Petition with the proposed corrections noted below.

II. Legal Background

This Board's rules allow for the correction of clerical or typographical mistakes without compromising a Petition's filing date. 37 C.F.R. § 42.104(c) provides:

A motion may be filed that seeks to correct a clerical or typographical mistake in the petition. The grant of such a motion does not change the filing date of the petition.

Section 42.104(c) is remedial in nature and therefore is entitled to a liberal interpretation. *See ABB Inc. v. ROY-G-BIV Corp.*, IPR2013-00063, Paper No. 21, 7.

“[W]hen determining whether to grant a motion to correct a petition, the Board will

consider any *substantial substantive effect*, including any effect on the patent owner’s ability to file a preliminary response.” 77 Fed. Reg. 48,680, 48,699 (Aug. 14, 2012) (emphasis added); *see also Arthrex v. Bonutti Skeletal Innovations, LLC*, IPR2013-00632, Paper No. 22, 5. The analysis hinges on the “distinction between correcting an inadvertent error and *the wholesale substitution of new analysis* for the analysis provided in the original petition.” *Amkor Tech., Inc. v. Tessera, Inc.*, IPR2013-00242, Paper 32, 5 (emphasis added).

III. Factual Background

On June 16, 2021, Petitioner filed a Petition requesting *inter partes* review of U.S. Patent No. 8,463,030, which was accorded a filing date by the Board on June 21, 2021. Subsequent to filing the Petition, Petitioner noticed typographical errors in the Petition and promptly contacted the Board administrative staff to inquire as to the best route for correcting the errors and was advised to file the instant motion. On August 3, 2021, Petitioner’s request for authorization to file an unopposed Motion to Correct Clerical or Typographical Errors was granted by the Board.

Petitioner now moves the Board for leave to file a corrected Petition seeking to make the corrections noted below, in red.

No.	Page	Current	Correction
1	ix	Ex. 1015: Defendants Bank of America Corporation and Bank of America, N.A.’s Answer to First Amended Complaint, Af-	Ex. 1015: Defendants Bank of America Corporation and Bank of America, N.A.’s Answer to First Amended Complaint, Af-

		firmative Defenses, and Counterclaims, NantWorks, LLC and Nant Holdings IP, LLC v. Bank of America Corporation and Bank of America, N.A., 2:20-CV-7872-GW-PVC (C.D. Cal. Nov. 11, 2020), ECF No. 99	firmative Defenses, and Counterclaims, NantWorks, LLC and Nant Holdings IP, LLC v. Bank of America Corporation and Bank of America, N.A., 2:20-CV-7872-GW-PVC (C.D. Cal. Mar. 26, 2021), ECF No. 99
2	ix	Ex. 1016: Civil Minutes (Scheduling Order), NantWorks, LLC and Nant Holdings IP, LLC v. Bank of America Corporation and Bank of America, N.A., 2:20-CV-7872-GW-PVC (C.D. Cal. Nov. 11, 2020), ECF No. 91	Ex. 1016: Civil Minutes (Scheduling Order), NantWorks, LLC and Nant Holdings IP, LLC v. Bank of America Corporation and Bank of America, N.A., 2:20-CV-7872-GW-PVC (C.D. Cal. Feb. 25, 2021), ECF No. 91
3	6	Bolle addresses this issue by segmenting an object in an image from the background, and then identifying the object by matching the segmented object to images of objects stored in a database. <i>Id.</i> , 4:27–30, 39–44, 5:47–57, 6:1–6, 8:12–38, 16:40–45.	Bolle addresses this issue by segmenting an object in an image from the background, and then identifying the object by matching the segmented object to images of objects stored in a database. Ex.1006 , 4:27–30, 39–44, 5:47–57, 6:1–6, 8:12–38, 16:40–45.
4	9	To acquire data related to the object, a user “aligns the sensor of the data capture device 14 with the object 16 of interest.” <i>Id.</i> , 5:25–26.	To acquire data related to the object, a user “aligns the sensor of the image capture device 14 with the object 16 of interest.” <i>Id.</i> , 5:25–26.
5	28	Indeed, Ogasawara contemplates multiple software programs running on its system (e.g., Ex.1005, 18:15–22, 23:12–16), including advanced pattern recognition software, so Bolle’s image segmentation and matching algorithms would reasonably be expected to run	Indeed, Ogasawara contemplates multiple software programs running on its system (e.g., Ex.1005, 18:15–22, 23:12–16), including advanced pattern recognition software, so Bolle’s image segmentation and matching algorithms would reasonably be expected to run on

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