IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TRILLER, INC.
Petitioner

v.

TIKTOK PTE. LTD.
Patent Owner

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Case No. IPR2022-00179
U.S. Patent No. 9,648,132

Title: Method Of Enabling Digital Music Content To Be Downloaded To And Used On a Portable Wireless Computing Device

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PETITIONER'S REQUEST FOR REFUND OF POST-INSTITUTION FEES

Pursuant to 37 C.F.R. § 1.26(a) and the Patent and Trademark Office's Final Rule Setting and Adjusting Patent Fees, 78 Fed. Reg. 4212, 4232-4234 (Jan. 18, 2013), Petitioner Triller, Inc. ("Triller") hereby requests a refund in the amount of $22,500 to be credited to Deposit Account No. 23-3178.

On November 10, 2021, Petitioner filed a Petition for Inter Partes Review of U.S. Patent No. 9,648,132 with the Patent Trial and Appeal Board, and the Petition was assigned case number IPR2022-00179. (Paper Nos. 1, 3.) In accordance with the fee schedule specified in 37 C.F.R. § 42.15(a), Petitioner provided at the time of filing of its Petition a payment via Deposit Account No. 23-3178 in the amount of $19,000 to cover the Inter Partes Review Request Fee and a further $22,500 to cover the Inter Partes Review Post-Institution Fee.

The Board instituted trial on May 16, 2022. (Paper No. 9.) On October 12, 2022, however, the Board entered a decision terminating this proceeding in accordance with a settlement agreement between the parties. (Paper No. 21.) The proceeding was terminated before briefing was complete, before any oral hearing, and before the Board had made any decision on the merits. (Paper No. 21.)

37 C.F.R. § 1.26(a) states that "[t]he Director may refund any fee paid…in excess of that required." Although that regulation does not specifically address a request for refund of an Inter Partes Review Post-Institution Fee, the Patent and

Trademark Office's Final Rule Setting and Adjusting Patent Fees, 78 Fed. Reg. 4212, 4233 (Jan. 18, 2013) states that "[t]he Office…chooses to return fees for post-institution services should a review not be instituted." And although that statement does not address a request for refund of a post-institution fee when a review *has* been instituted—but when the review is terminated before the Board has expended the time to prepare for and conduct an oral hearing or to make any decision on the merits as in this case, such a request would seem to be within the scope of 37 C.F.R. § 1.26(a). Indeed, in *Hisense Visual Technology Co. v. LG Electronics Inc.*, IPR2020-01208, Paper Nos. 18 and 19 (Apr. 5, 2021 and Apr. 7, 2021), a refund of the post-institution fee was allowed when the review was terminated *after* institution but before briefing was complete and, therefore, well before oral hearing and well before any decision on the merits. Likewise, in *SK Hynix Inc. v. Netlist, Inc.*, IPR2020-01421, Paper Nos. 17 and 18 (May 27, 2021 and June 10, 2021), a refund of the post-institution fee was allowed in the same situation. The proceedings in this case were also terminated before briefing was complete and, consequently, well before oral hearing and well before any decision on the merits.

Accordingly, consistent with the refunds issued in *Hisense* and *SK Hynix*, and pursuant to 37 C.F.R. § 1.26(a), Petitioner requests a refund in the amount of $22,500 for the Post-Institution Fee that it paid to the USPTO in connection with this

proceeding, or alternatively, whatever portion of that fee the Office deems was "paid…in excess of that required," to be credited to Deposit Account No. 23-3178.

DATED this 14th day of October, 2022.

Respectfully submitted,

By /Chad Nydegger/

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, I hereby certify that on this 14th day of October 2022, I caused the foregoing **PETITIONER'S REQUEST FOR REFUND OF POST-INSTITUTION FEES** to be served via email on the following counsel of record for Patent Owner:

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