

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

Parrot S.A. and Parrot, Inc.

Petitioners,

v.

Drone Technologies, Inc.

Patent Owner

Case IPR2014-00732
U.S. Patent No. 8,106,748

Before HOWARD B. BLANKENSHIP, MATTHEW R. CLEMENTS, and
CHRISTOPHER M. KAISER, *Administrative Patent Judges*.

**MOTION TO CORRECT EXHIBIT
TO PETITION FOR *INTER PARTES* REVIEW
PURSUANT TO 37 C.F.R. § 42.104(c)**

PETITIONER'S REVISED EXHIBIT LIST

| Exhibit # | Reference Name |
|------------------|---|
| Ex. 1001 | U.S. Patent No. 8,106,748 (“the ’748 Patent”) |
| Ex. 1002 | U.S. Patent No. 5,043,646 (“Smith”) |
| Ex. 1003 | French Patent No. 9901683 to Potiron |
| Ex. 1004 | Certified Translation of French Patent No. 9901683 (“Potiron”) |
| Ex. 1005 | U.S. Pat. Pub. No. 2006/10144994 A1 (“Spirov”) |
| Ex. 1006 | EXHIBIT INTENTIONALLY LEFT BLANK |
| Ex. 1007 | U.S. Pat. No. 7,219,861 (“Barr”) |
| Ex. 1008 | U.S. Pat. No. 6,751,529 (“Fouche”) |
| Ex. 1009 | U.S. Pat. No. 7,145,551 (“Bathiche”) |
| Ex. 1010 | U.S. Pat. Pub. No. 2004/0263479 (“Shkolnikov”) |
| Ex. 1011 | Expert Declaration of Prof. Raffaello D’Andrea with Attachments A-C |
| Ex. 1011, Att. A | U.S. Patent No. 613,809 to Tesla (“Tesla”) |
| Ex. 1011, Att. B | U.S. Patent No. 3,101,569 to Giardina (“Giardina”) |
| Ex. 1011, Att. C | U.S. Patent No. 8,072,417 (“Jouanet”) |
| Ex. 1012 | Claim Chart Demonstrating Invalidity of the ’748 Patent |
| Ex. 1013 | Declaration of Deborah A. Skolaski |
| Ex. 1014 | Declaration of James E. Hopenfeld |
| Ex. 1015 | Declaration of Prof. Raffaello D’Andrea |

Petitioners Parrot S.A and Parrot, Inc. (collectively, “Parrot” or “Petitioner”) file this Motion pursuant to 37 C.F.R. § 42.104(c) to correct clerical mistakes in Exhibit 1011 in this IPR, namely, the inadvertent inclusion of the wrong signature page and omission of “Appendix B.” During a conference call on February 2, 2015, the Board authorized Petitioner to file this motion by February 9, 2015.

A. Applicable Rule

Pursuant to 37 C.F.R. § 42.104(c), “[a] motion may be filed that seeks to correct a clerical or typographical mistake in the petition. The grant of such motion does not change the filing date of the petition.”

B. Facts Relevant to this Motion

1. On May 6, 2014, Petitioner filed the petition in the instant IPR. On May 9, 2014, the petition was accorded a filing date of May 6, 2014. Paper 3. Patent Owner filed a preliminary response, and, on October 28, 2014, the Board instituted trial with respect to all claims of the ’748 Patent.

2. Prior to filing the IPR petition and its exhibits, the paralegal staff and/or other attorneys on Petitioner’s counsel’s team collected the PDF files that would eventually be assembled into the final exhibits in various shared folders on Osha Liang LLP’s file system. Exh. 1013 (Decl. of D. Skolaski) at ¶¶ 2-3. These materials included, among other things, (1) the signature page to Prof. D’Andrea’s declaration, and (2) his CV, which was supposed to be attached to the declaration

as “Appendix B” in the final exhibit. Exh. 1013 at ¶ 3. Although copies of the signature page and CV were collected prior to filing in PRPS, due to a clerical mistake during the assembly of Exhibit 1011, the wrong signature page was attached and the PDF file of the CV was inadvertently not included in the exhibit. Exh. 1013 at ¶¶ 3-6; Exh. 1014 (Decl. of J. Hopenfeld) at ¶¶ 4-5. This error was unintentional and Petitioner’s counsel discovered the errors in January 2015, while preparing for and during Prof. D’Andrea’s deposition. Exh. 1013 at ¶ 6; Exh. 1014 at ¶ 6; and Exh. 1015 (Decl. of R. D’Andrea) at ¶ 6.

3. Upon discovering the errors and after receiving a letter from Patent Owner’s counsel regarding the signature page, a corrected Exhibit 1011 was prepared, which includes the correct signature page, the copy of the PDF file of Prof. D’Andrea’s CV at “Appendix B” to his declaration, a new exhibit label on the exhibit, and additional page-numbering on the attachments to the declaration for ease of reference. Exh. 1013 (Skolaski) at ¶ 7; Exh. 1014 (Hopenfeld) at ¶ 6; Exh. 1015 (D’Andrea) at ¶ 7. Petitioner served corrected Exhibit 1011 on Drone’s counsel on Monday, January 26, 2015. Exh. 1013 at ¶ 7, Exh. 1014 at ¶ 6.

C. Relief Requested

Petitioner requests that Exhibit 1011 be replaced with its corrected exhibit, a copy of which has been filed with this motion and which includes the correct signature page and CV, and that the petition retain its original filing date.

D. Requested Relief has No Substantial Substantive Effect on Proceeding

“[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. 48680, 48699. Petitioner respectfully submits that filing a replacement for Exhibit 1011 with the correct signature page and CV will have no substantial substantive effect on the proceeding and did not materially prejudice the Patent Owner. The evidence shows that Prof. D’Andrea signed his declaration and intended for the correct signature page and CV to be included with his declaration, and that the clerical errors in the exhibit assembly were unintentional. Exh. 1015 (D’Andrea) at ¶¶ 1-7; Exh. 1013(Skolaski) at ¶¶ 3-6; Exh. 1014(Hopenfeld) at ¶¶ 3-6. Moreover, Patent Owner timely filed its Preliminary Response without raising the errors as issues with the Board or Petitioner, and Prof. D’Andrea’s qualifications are not in dispute.

In view of the foregoing, Petitioner asks that this motion be granted.

Dated: February 9, 2015

Respectfully submitted,

/Tammy J. Terry/

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