

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PARROT S.A. and PARROT, INC.,
Petitioner,

v.

DRONE TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2014-00732
Patent 8,106,748 B2

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

BLANKENSHIP, *Administrative Patent Judge*.

DECISION
Motion to Correct Exhibit 1011
37 C.F.R. § 42.104(c)

IPR2014-00732
Patent 8,106,748 B2

Petitioner has filed an authorized motion to correct Exhibit 1011 pursuant to 37 C.F.R. § 42.104(c). Paper 14 (“Mot.”). Patent Owner opposes the motion to correct. Paper 16 (“Opposition”). Petitioner has replied to the opposition. Paper 17 (“Reply”).

The Board’s rules allow for the correction of clerical mistakes in a petition. Specifically, 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.” “[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.” Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents; Final Rule, 77 Fed. Reg. 48,680, 48,699 (Aug. 14, 2012).

Petitioner filed its Petition (Paper 1) in this proceeding on May 6, 2014. Petitioner filed, as part of its petition, Exhibit 1011, the Declaration of Dr. Raffaello D’Andrea, which referenced Dr. D’Andrea’s Curriculum Vitae as being attached to the Declaration as “Appendix B.” The CV is not found in Exhibit 1011. Further, the signature page of the Declaration, at the bottom, contains the language “Regarding U.S. Patent No. 7,584,071” and the notation “Petitioner Parrot – Ex. 1010.” Ex. 1011, 2. We observe that a Declaration by Dr. D’Andrea was submitted as Exhibit 1010 in related Case IPR2014-00730, as part of a request for *inter partes* review of U.S. Patent No. 7,584,071 B2.

Petitioner submits that the errors in submission of the Declaration were unintentional and were discovered in January 2015, while preparing for (and during) Dr. D'Andrea's deposition during trial. Mot. 2.

Although copies of the correct signature page and the CV were received and placed in a shared electronic folder prior to PRPS filing, the wrong signature page was attached and the PDF file of the CV was inadvertently not included in the Exhibit. Mot. 2; Ex. 1014 ¶¶ 4–5 (Declaration of lead counsel); Ex. 1013 ¶¶ 3–6 (Declaration of law firm's lead paralegal). Scanned, executed signature pages were received via email from Dr. D'Andrea for Exhibit 1011 in this proceeding and for Exhibit 1010 in related proceeding IPR2014-00730, with instructions to insert the signature pages into the final versions of the Declaration. Ex. 1013 ¶ 4. Due to an unintentional clerical mistake, the executed signature page for Exhibit 1010 in IPR2014-00730 was inserted as the signature page for Exhibit 1011 in this proceeding. *Id.* ¶ 6. In addition, Dr. D'Andrea's CV was inadvertently not included in Exhibit 1011. *Id.*

Dr. D'Andrea testifies that he signs “about 50 documents a week” and does not have specific recollection of signing any particular document. Ex. 1015 ¶ 3. But Dr. D'Andrea continues:

I am the author of both declarations [in this and the related proceeding] supporting Petitioner's IPR petitions Each declaration accurately reflects my testimony, and I understood that each declaration was submitted under oath and penalty of perjury. I know that I signed my declarations because I have seen the signature pages and they bear my signature. I also know that I scanned and

IPR2014-00732
Patent 8,106,748 B2

emailed my signature pages to Petitioner’s counsel on or about April 30, 2014, because I have recently seen the email to which I attached the copies of my signature pages.

Id. ¶ 4.

Attached to Dr. D’Andrea’s Exhibit 1015 Declaration is a copy of an email that purports to be from Dr. D’Andrea addressing Petitioner’s lead counsel, and dated Wednesday April 30, 2014. Ex. 1015, 7 (“Attachment A”). The email contains the following relevant statements from Dr. D’Andrea: “Here are the signed forms. I have not had a chance to go over the documents one more time, but really, at this stage, it should only be typos and organizational.” *Id.*

Petitioner requests that Exhibit 1011 be replaced with corrected Exhibit 1011 (filed Feb. 9, 2015), which includes the correct signature page and the CV. Mot. 2.

Patent Owner’s Opposition discusses weight and admissibility of Dr. D’Andrea’s Declaration and alleged discrepancies with respect to Exhibit 1015 and the email purported to be from Dr. D’Andrea. The Opposition, however, does not address, or otherwise respond to, the apparent inadvertent errors of failing to upload the CV and uploading the wrong signature page. Patent Owner does not provide a substantive dispute with respect to any of the assertions regarding failure to upload the CV and correct signature page that Petitioner makes in its motion. Nor does Patent Owner argue that failure to include the CV and correct signature page with the Declaration had any substantial substantive effect on this proceeding, such as affecting Patent Owner’s ability to file a preliminary response. We are

IPR2014-00732
Patent 8,106,748 B2

persuaded that the failure to upload the CV and correct signature page with Exhibit 1011 was a clerical or typographical mistake and the type of action that may be corrected under 37 C.F.R. § 42.104(c). Accordingly, Petitioner's motion to correct Exhibit 1011 is *granted*.

It is

ORDERED that Petitioner's motion to correct Exhibit 1011 is granted; and

FURTHER ORDERED that Corrected Exhibit 1011 (filed Feb. 9, 2015) replaces original Exhibit 1011.

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