

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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HANGZHOU LANGHONG TECHNOLOGY CO. LTD and LANGHONG  
TECHNOLOGY USA INC.,

Petitioner,

v.

INVUE SECURITY PRODUCTS, INC.,

Patent Owner

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Case IPR2015-01263

Patent No. 8,896,447

Before Brian J. McNamara, Neil T. Powell, and Daniel J. Galligan,  
*Administrative Patent Judges*

**PETITIONER'S REQUEST FOR REFUND OF FEES**

**I. PETITIONER’S REQUEST FOR FULL REFUND OF FEES OR, ALTERNATIVELY, FOR PARTIAL REFUND OF THE FEE FOR REQUESTING *INTER PARTES* REVIEW PURSUANT TO 37 C.F.R. §§ 1.26(C)(2) AND 1.925, AND THE POST-INSTITUTION FEE**

On May 22, 2015, Hangzhou Langhong Technology Co., Ltd. and Langhong Technology USA Inc. (collectively, “Petitioner”) submitted a Petition for review of U.S. Pat. No. 8,896,447 B2 (“Petition”). Petitioners paid a total of \$26,200 in fees for twenty-two (22) challenged claims, *i.e.*, \$9,400 in fees for requesting *inter partes* review and \$16,800 in post-institution fees (collectively, “Fees”). On July 8, 2015, the Patent Trial and Appeal Board (“Board”) held a conference with counsel for the parties during which it indicated that a corrected Petition was required to obtain a filing date. *See* Paper 6 at 2. On July 16, 2015, the Board ordered that a corrected Petition with a copy of the Subject Patent be submitted within five days. *See* Paper 5. On August 4, 2015, the Board entered a Dismissal of Petition order pursuant to 37 C.F.R. § 42.5. *See* Paper 6. In the Dismissal of Petition order, the Board stated that “the Petition has not been accorded a filing date and the Petition is dismissed.” Paper 6 at 2. Petitioner respectfully requests a full refund of the \$26,200 in Fees it paid.

Here, Petitioner did not submit a corrected Petition. *See* Paper 6 at 2. As a result, in accordance with its July 16, 2015 order, the Board denied the Petitioner a filing date. *See id.* Indeed, the Petition was dismissed *before* it was even accorded

a filing date. *See id.* The Board did not review the Petition on the merits; the Patent Owner did not file a Preliminary Response; and the Decision to Dismiss the Petition was not one premised on the merits of Petitioner's grounds or bases for instituting a proceeding. Given the extremely early stage in which this proceeding was dismissed, Petitioner respectfully submits that because of the unique facts of this case, good cause exists for the Board to waive the general rule to not refund the fee for requesting *inter partes* review, and to refund the Fees in full. *See* 78 Fed. Reg. 4212, 4233 (January 18, 2013). Accordingly, Petitioner respectfully requests that the Board grant such relief and refund the entire \$26,200 in Fees paid.

Alternatively, and to the extent the Board will not grant a full refund of the Fees, *i.e.*, both the \$9,400 in fees for requesting *inter partes* review and the post-institution fee of \$16,800, Petitioner hereby respectfully requests a partial refund of the fees for requesting *inter partes* review, and the full post-institution fees. *See* 37 C.F.R. § 1.26(c)(2) (“For an *inter partes* reexamination request, a refund of \$7,970 will be made to the reexamination requester if the Director decides not to institute an *inter partes* reexamination proceeding.”); § 1.925 (“Where *inter partes* reexamination is not ordered, a refund of a portion of the fee for requesting *inter partes* reexamination will be made to the requester in accordance with § 1.26(c).”).

Here, as discussed above, the Board dismissed the Petition before even according it with a filing date. *See* Paper 6 at 2. Therefore, it is clearly

permissible for the Petitioner to receive at least a partial refund of the fees for requesting *inter partes* review, and the full post-institution fees. *See* 37 C.F.R. §§ 1.26(c)(2) and 1.925; 78 Fed. Reg. 4212, 4233 (January 18, 2013).

Finally, to the extent the Board will not grant a partial refund of the fees for requesting *inter partes* review, and the full post-institution fees, Petitioner hereby respectfully requests refund of at least the full \$16,800 in post-institution fees. The Rules and precedent permit at least such relief under the circumstances described above. *See* 78 Fed. Reg. 4212, 4233 (January 18, 2013) (“The USPTO also sets the *inter partes* review post-institution fee at \$14,000 for a review of up to 15 claims. This fee would be returned to the petitioner if the Office does not institute a review.”); IPR2014-00244 at Paper 11 (“The new structure permits a refund of [the post-institution] fee if the requested *inter partes* review is not initiated.”).

Petitioner, through the undersigned, authorizes the Office to refund the requested fees to Deposit Account No. 50-0310 (Order No. 102838-3003).

## II. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Board grant the relief sought.

Dated: August 6, 2015

Respectfully submitted,

/ Dion M. Bregman /

Dion M. Bregman (Reg. No. 45,645)

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