

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WARGAMING GROUP LIMITED
Petitioner

v.

GAME AND TECHNOLOGY CO., LTD.,
Patent Owner

Case IPR2017-01082
Patent 7,682,243

MOTION TO FILE CORRECTED PATENT OWNER RESPONSE

I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Patent Owner Game and Technology Co, Ltd. respectfully moves the Patent Trial and Appeal Board (Board) to allow Patent Owner to file a Corrected Patent Owner Response. Petitioner does not oppose this motion.

II. STATEMENT OF FACTS

The due date for Patent Owner Response was February 5, 2018, as agreed between the parties in Paper No. 35, Stipulation dated January 9, 2018..

On February 5, 2018, due to a clerical error, Patent Owner inadvertently filed a draft version of the Patent Owner Response and not the final version of the Response. As discussed in the Declaration of Shelia Blackston(Ex[2033]), Ms. Blackston was instructed by Patent Owner's counsel to file and serve a document entitled "Final Patent Owner Response." However, due to a clerical error, Mr. Blackston filed an earlier draft of the Patent Owner Response entitled "Draft Patent Owner Response v2."The draft version was not signed and included a Watermark "Draft."

Petitioner's counsel informed Patent Owner's counsel of the unsigned Patent Owner Response on February 9, 2018, and Patent Owner's Counsel and Petitioner's Counsel conferred regarding this Motion on February 12 and 13, 2018.

III. LEGAL STANDARD

37 C.F.R. § 42.5(b) provides that “[t]he Board may waive or suspend a requirement of . . . [part] 42 and may place condition on the waiver or suspension.” “A late action will be excused on a showing of good cause or upon a Board decision that consideration on the merits would be in the interests of justice.” 37 C.F.R. § 42.5(c)(3). For example, in *Presidio Components v. AVX Corp.*, IPR2015-01332, Paper 12 at 2-4 (PTAB Aug. 21, 2015), the Board allowed the petitioner to file a Corrected Declaration where the copy that was filed had been unsigned. In *Presidio* at 4, the Board stated, “[i]nadvertent mistakes generally not affecting the merits of a case can happen, and we expect the parties to address them amicably.”

III. ANALYSIS

Patent Owner respectfully moves the Patent Trial and Appeal Board (Board) to allow Patent Owner to file a Corrected Patent Owner Response including the document that Ms. Blackston was instructed to file ("Final Patent Owner Response").

Petitioner is not prejudiced by this corrected filing because the Corrected Patent Owner Response is substantially the same as the Patent Owner Response that was inadvertently filed on February 5, 2018, with citations modified and the Response shortened so that it is within the word limit of 37 C.F.R. § 41. The changes between the erroneous document filed February 5, 2018, and the signed

Patent Owner Response that Patent Owner respectfully requests leave to file are shown in the attached Ex[2034].

Moreover, Petitioner has until May 1, 2018, to file its Reply, as agreed by the parties in Paper No. 35, the Stipulation dated January 9, 2018. Therefore, Petitioner has sufficient time to prepare its Reply.

IV. CONCLUSION

For the reasons discussed above, Patent Owner moves the Patent Trial and Appeal Board (Board) to allow Patent Owner to file a Corrected Patent Owner Response.

Respectfully submitted,

/John M. Bird/ # 46,027, John M. Bird
for

William H. Mandir
Registration No. 32,156

Sughrue Mion, PLLC
CUSTOMER NUMBER: 23373
Date: February 15, 2018