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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

IRONRIDGE INC.

Petitioner,

v.

RILLITO RIVER SOLAR, LLC

Patent Owner.

Case IPR2017-01681

Patent 6,526,701

**Unopposed Motion to Correct Clerical Mistake in the Petition
Under 37 C.F.R. § 42.104(c)**

Further to the Board's authorization via email sent on November 9, 2017 to file this Motion, Petitioner respectfully requests permission to file a Corrected Petition for Inter Partes Review under 37 C.F.R. § 42.104(c). (*See* Exh. A.) The originally-filed Petition for Inter Partes Review, filed on June 27, 2017 ("the Petition") contains a small number of incorrect citations to the Declaration of Dr. Kimberly Cameron, Exh. 1002. Filed concurrently herewith is Exhibit B, a proposed Corrected Petition for Inter Partes Review ("the Corrected Petition"), and Exhibit C, a red-lined copy of pages 64-66 comparing the pertinent pages of the Corrected Petition to the Petition. The changes identified in the red-lined copy of those three pages are the only changes Petitioner seeks permission to make.

The Petition contains several Challenges to the patentability of the claims of U.S. Patent No. 6,526,701, based on three different primary references, each of which are independently combined with four secondary references, to assert the invalidity of independent claim 36.

Despite careful attention to detail over the entirety of the Petition, in arguing that the claims were obvious over the combination of Stearns, U.S. Patent No. 5,609,326 in view of Taylor, U.S. Patent No. 3,394,516, the Petition cites to paragraphs 116 and 117 of the Cameron Declaration, which testify that the claims would have been obvious over *Alley*, U.S. Patent No. 5,613,328 in view of Taylor. *See* Petition, at p. 64. These citations should have been made to the portion of the

Cameron Declaration setting forth her testimony asserting that the claims would have been obvious over Stearns in view of Taylor. *See* Cameron Decl. at ¶¶ 132-135. The Replacement Petition merely revises the citations within the Petition to cite the correct paragraphs within the Cameron Declaration.

Similar clerical errors were made on pages 65 and 66 within the Petition regarding the combination of Stearns and Funaki, U.S. Patent No. 5,425,209 and the combination of Stearns and Hablutzel, EP 0710751. Again, the Petition cites to paragraphs of the Cameron Declaration testifying that the claims would have been obvious over combinations of Alley and Funaki and Alley and Hablutzel. The Replacement Petition merely revises the citations within the Petition to cite to the correct paragraphs of the Cameron Declaration.

“[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.

This Motion to Correct the Petition should be granted because the clerical errors had no effect on Patent Owner's ability to file a response to the Petition. In fact, the Patent Owner's Response points out the clerical error, and even points out the location in the Cameron Declaration dealing with Petitioner's argument regarding Stearns in view of Taylor. *See* Patent Owner's Response, at 49 (“Cameron does have paragraphs dealing with the Stearns/Taylor combinations

(Exh. 1012 [sic] ¶¶ 132-135), but Petitioner does not rely on those.”).¹ The Patent Owner can claim no prejudice or surprise.

Petitioner has provided a copy of this motion to counsel for the Patent Owner. The Patent Owner advised counsel for Petitioner on November 6, 2017 that it does not oppose the motion, but Patent Owner does not agree with Petitioners’ substantive positions in the Petition or this Motion, and Patent Owner maintains its position that Petitioner improperly attempts to incorporate material by reference from the Cameron Declaration that is not separately argued in the Petition.

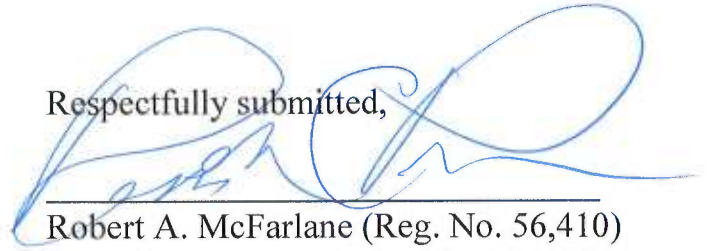
Petitioner submits that the requested relief would benefit the public by providing a more accurate public record and ensuring that the Petition cites to the correct locations within the Cameron Declaration. No new matter, facts, or arguments are presented by way of this Motion. Accordingly, Petitioner requests permission under 37 C.F.R. § 42.104(c) to file the Replacement Petition for entry into the public record.

¹ Note that the Patent Owner’s Response has a clerical error of its own. The Cameron Declaration is Exh. 1002, not Exh. 1012.

The undersigned attorneys welcome a telephone call should the Board have any additional requests or questions.

Dated: 10-NOV-2017

Respectfully submitted,



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