

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,
Petitioner,

v.

QWIKCASH, LLC,
Patent Owner.

IPR2020-00972
Patent 8,714,445 B1

Before JUSTIN T. ARBES, DAVID C. MCKONE, and TERRENCE W.
MCMILLIN, *Administrative Patent Judges*.

MCMILLIN, *Administrative Patent Judge*.

ORDER
Granting Patent Owner's Request for Extension of Time
37 C.F.R. § 42.5(c)(2)

On September 9, 2020,¹ Patent Owner's counsel sent an email to the Board requesting a thirty-day extension of time to file the preliminary response. Ex. 3001. The email stated:

The undersigned and his firm, Niro McAndrews, LLP, was retained today to represent Patent Owner, Qwikcash, LLC ("Qwikcash"), in *Inter Partes* Review IPR2020-00972. The delay in our retention was caused directly by the COVID-19 outbreak.

Specifically, Qwikcash is a small entity based in Florida that is managed solely by Howard Katz, the 79 year-old inventor of the patent at issue in this proceeding, U.S. Patent No. 8,714,445 ("the '445 patent"). During the late June / early July 2020 spike in Florida COVID-19 cases, Mr. Katz contracted the virus and was unable to arrange for representation in the above-captioned proceeding. To date, Mr. Katz has not fully recovered from the disease.

Id. In its email, Patent Owner references the USPTO's June 2020 Update Regarding Certain Patent-Related Timing Deadlines under the Coronavirus Aid, Relief, and Economic Security Act and Other Relief Available to Patent Applicants and Patentees (June 29, 2020), available at <https://www.uspto.gov/sites/default/files/documents/Patents-Notice-CARES-Act-2020-06.pdf> ("June 2020 COVID-19 Update"). The June 2020 COVID-19 Update provides:

¹ The preliminary response was due on September 9, 2020. See Paper 3, 1 (Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response). Prior to this date, despite repeated efforts by Petitioner to contact Patent Owner (see Ex. 3002), Patent Owner had not made any filings in this proceeding including failing to submit mandatory notice information under 37 C.F.R. § 42.8 within 21 days of service of the Petition. Patent Owner's Mandatory Notices Pursuant to 37 C.F.R. § 42.8(b) (Paper 5) was filed on September 9, 2020. Patent Owner's Power of Attorney (Paper 4) indicates that Patent Owner's counsel was appointed by Patent Owner to represent it in this proceeding on September 9, 2020.

The United States Patent and Trademark Office (USPTO) recognizes that the COVID-19 pandemic has imposed significant hardships on many of our stakeholders. . . . By this notice, under the [Coronavirus Aid, Relief, and Economic Security] Act authority and its existing authority, the USPTO will extend or otherwise begin to direct relief as described below. Further, although some relief provided in past notices is ending, other extensions of time and other relief remain available to those who need it on a case-by-case basis.

* * *

(4) PTAB

For proceedings before the PTAB, a request for an extension of time where the COVID-19 outbreak has prevented or interfered with a filing before the PTAB can be made by contacting the PTAB . . . by email at Trials@uspto.gov (for AIA trials). . .

Patent Owner's request for an extension of time by email was made in accordance with the June 2020 COVID-19 Update and, based upon the representations in the email, we determine the COVID-19 outbreak has prevented or interfered with the filing of Patent Owner's preliminary response. We, therefore, grant the request for an extension of time.

In addition, 37 C.F.R. 42.5(c)(2) provides, "[a] request for an extension of time must be supported by a showing of good cause." Based upon the representations in Patent Owner's email, we determine that good cause exists for granting the request for an extension of time.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner's request for an extension of time is granted; and

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FURTHER ORDERED that Patent Owner's preliminary response pursuant to 35 U.S.C. § 313 and 37 C.F.R. § 42.107 shall be filed on or before October 9, 2020.

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