

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION AND AFFIRMED NETWORKS, INC.,
Petitioner,

v.

LEMKO CORPORATION,
Patent Owner.

IPR2023-00529
Patent 7,653,414 B2

Before HUBERT C. LORIN, NEIL T. POWELL, and
FRANCES L. IPPOLITO, *Administrative Patent Judges*.

POWELL, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

With prior Board authorization, Patent Owner filed a Motion to Accept Filing of its Preliminary Response. Paper 9 (“Motion” or “Mot.”). Patent Owner requests acceptance of its “one-day late filing of its Preliminary Response (Paper 7) under 37 C.F.R. § 42.5(c)(3).” *Id.* at 1. Patent Owner explains that it could not file the Preliminary Response on the June 28 due date because “P-TACTS was malfunctioning up to the midnight deadline.” *Id.* Patent Owner adds that “after midnight, the P-TACT system error was resolved and Patent Owner was able to successfully file its Preliminary Response and exhibits on June 29, 2023 at 12:13 AM ET.” *Id.* at 3.

Patent Owner avers that it served Petitioner with the Preliminary Response and associated exhibits via email on June 28 at 11:47 PM ET. *Id.* at 2. Accordingly, Patent Owner argues that accepting the late filing of its Preliminary Response and accompany exhibits would not prejudice Petitioner. *Id.* at 3. Patent Owner notes that Petitioner does not oppose the Motion. *Id.* at 1. Patent Owner concludes that it would “be in the interests of justice to excuse the late filing and consider the Preliminary Response and Exhibits.” *Id.* at 3.

Patent Owner persuades us that it would be in the interests of justice to accept the late filing of the Preliminary Response and associated exhibits under 37 C.F.R. § 42.5(c)(3).

Accordingly, it is

ORDERED that Patent Owner’s Motion to Accept Late filing of its Preliminary Response and associated exhibits is *granted*.

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