

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HUM INDUSTRIAL TECHNOLOGY, INC.
Petitioner

v.

AMSTED RAIL COMPANY, INC.
Patent Owner

Case IPR2023-00539
Patent No. 9,981,673

Before JAMES P. CALVE, KEVIN W. CHERRY, and MICHAEL L. WOODS,
Administrative Patent Judges.

**PETITIONER HUM INDUSTRIAL TECHNOLOGY, INC.'S
MOTION TO CORRECT CLERICAL ERRORS**

EXHIBIT INDEX

Ex #	Exhibit Description
1001	U.S. Patent No. 9,981,673 (“the ’673 Patent”)
1002	Prosecution History of the ’673 Patent
1003	Expert Declaration of Steven Ricca
1004	<i>Curriculum Vitae</i> for Steven Ricca
1005	U.S. Patent Publication No. 2007/0152107 A1 to LeFebvre et al. (“LeFebvre”)
1006	U.S. Patent Publication No. 2011/0282540 A1 to Armitage et al. (“Armitage”)
1007	U.S. Patent Publication No. 2007/0208841 A1 to Barone et al. (“Barone”)
1008	U.S. Patent Application Publication No. 2008/0195265 to Searle et al. (“Searle”)
1009	U.S. Patent No. 6,339,397 to Baker et al. (“Baker”)
1010	U.S. Patent No. 6,487,478 to Azzaro et al. (“Azzaro”)
1011	Amsted Rail Company, Inc.’s Complaint filed against Hum Industrial Technology, Inc. (ECF No. 1) filed on April 18, 2022
1012	Waiver of the Service of Summons upon Hum Industrial Technology, Inc. (ECF No. 4) dated June 14, 2022
1013	U.S. Provisional Application No. 61/661,661 (“the ’661 Provisional”)
1014	U.S. Patent Application No. 12/861,713 (“the ’713 Application”)
1015	U.S. Patent No. U.S. 7,688,218 to LeFebvre et al. (“LeFebvre ’218”)
1016	Third Generation On-Board Monitoring and Control System Based on Controller Area Network Technology Dr. John Donelson III, et al.
1017	Defendants' Stipulation of Invalidity Contentions
1018	U.S. Patent Application Publication No. 2005/0194497 to Matzan (“Matzan”)
1019	<i>Intentionally Omitted</i>
1020	Transcript of Conference Call Before James P. Calve, Kevin W. Cherry, and Michael L. Woods (June 8, 2023)

Ex #	Exhibit Description
1021	Expert Declaration of Steven Ricca in Support of Petitioner’s Opposition to Patent Owner’s Motion to Amend
1022	U.S. Patent No. 6,672,681 to Moretti et al. (“Moretti”)
1023	International Publication No. WO 82/00805 to Sinha (“Sinha”)
1024	U.S. Patent No. 6,539,293 to Bächtiger et al. (“Bächtiger”)
1025	U.S. Patent No. 2,818,508 to Johanson et al. (“Johanson”)
1026	U.S. Patent No. 5,149,025 to Utterback et al. (“Utterback”)
1027	U.S. Patent No. 5,331,311 to Doctor et al. (“Doctor”)
1028	Hum’s First Supplemental Counter-Infringement Contentions
1029	Declaration of Eric J. Rakestraw in Support of Petitioner’s Reply
1030	Expert Declaration of Steven Ricca in Support of Petitioner’s Reply
1031	U.S. Provisional Application No. 61/333,428 to Armitage et al. (“Armitage Provisional”)
1032	Proposed Corrected Reply to Patent Owner’s Response CONFIDENTIAL
1033	Proposed Corrected Reply to Patent Owner’s Response (Redacted)
1034	Proposed Corrected Opposition to Patent Owner’s Motion to Amend

Petitioner Hum Industrial Technology, Inc. (“Petitioner”) files this motion respectfully requesting correction of a clerical mistake in Petitioner’s Reply to Patent Owner’s Response and in Petitioner’s Opposition to Patent Owner’s Motion to Amend filed in this proceeding.

I. FACTS RELEVANT TO THIS MOTION

1. On January 11, 2024, Petitioner filed its Reply to Patent Owner’s Response (the “Reply”) and Petitioner’s Opposition to Patent Owner’s Motion to Amend (the “Opposition”).

2. Due to a clerical error, the exhibit numbering used in the Reply and the Opposition does not match the exhibit numbers as filed. Specifically: **(1)** the Declaration of Steven Ricca in support of Petitioner’s Reply (EX1030) is incorrectly referenced in the Reply and the Opposition as EX1019; and **(2)** Provisional Application No. 61/333,428 (EX1031) is incorrectly referenced in the Reply and the Opposition as EX1020.

3. Petitioner notified Patent Owner of the clerical errors and its proposed corrections on January 12, 2024.

4. In an email reply on January 12, 2024, Patent Owner indicated that it would not oppose Petitioner’s motion to correct the clerical errors identified above.

II. RELIEF REQUESTED

Petitioner respectfully requests that it be allowed to correct its Reply and its

Opposition by:

(1) with respect to the Declaration of Steven Ricca in support of Petitioner's Reply, replacing incorrect citations to EX1019 with corrected citations to EX1030;

(2) with respect to Provisional Application No. 61/333,428, replacing incorrect citations to EX1020 with corrected citations to EX1031; and

(3) correcting the Exhibit Index to accurately reflect the as-filed exhibit numbers.

Redlined versions of the Reply that identify the proposed corrections have been filed as EX1032 (confidential) and as EX1033 (redacted).¹ A redlined version of the Opposition that identifies the proposed corrections has been filed as EX1034.

The Board has authority to grant the requested relief at least under 37 C.F.R. § 42.5(b). The proposed changes are clerical in nature, and do not add any new substantive analysis or argument to the Reply or the Opposition. Petitioner certifies that the proposed corrections will not cause the Reply to exceed the applicable word count, and that the proposed corrections will not cause the Opposition to exceed the applicable page limit.

¹ EX1032 has been filed under seal because the unredacted Reply includes quotations from exhibits that Patent Owner has marked as confidential. *See* Paper No. 22, *Petitioner's Motion to Seal Unredacted Version of Reply*.

V. CONCLUSION

Petitioner respectfully requests that the Board apply the proposed corrections to Petitioner's Reply to Patent Owner's Response and to Petitioner's Opposition to Patent Owner's Motion to Amend.

Respectfully submitted,

Dated: January 19, 2024

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of January, 2024, the foregoing was served via electronic mail to the attorneys of record for the '673 Patent at the following address:

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