

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EDEN PARK ILLUMINATION, INC.,
LARSON ELECTRONICS LLC, FAR UV TECHNOLOGIES
and USHIO AMERICA, INC.

Petitioners,

v.

S. EDWARD NEISTER,
Patent Owner.

Case IPR2023-00695
U.S. Patent No. 11,246,951

**MOTION FOR LEAVE TO SUBMIT
PATENT OWNER SUR-REPLY OUT OF TIME**

I. REQUESTED RELIEF

Pursuant to 37 C.F.R. §§ 42.20(b) and 42.21, Patent Owner, S. Edward Neister, hereby files this motion for leave of the Board to accept Patent Owner's Sur-reply for the above-captioned proceeding out of time. As reflected in the attached Declaration of Brent P. Ray ("Ray Decl.")(Ex. 2031), the sur-reply was due on August 2, 2023 and only through inadvertence did counsel not file it by such date. Patent Owner discovered this error on August 9, 2023 when considering the docket for a related IPR against the same Petitioners.

II. BASIS FOR ITS ENTITLEMENT TO RELIEF

Good cause exists to permit such late submission of Patent Owner's sur-reply, filed concurrently herewith this notice. Under 37 C.F.R. § 42.5(c)(3), "[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 interest of justice." Here, undersigned counsel inadvertently failed to file the sur-reply on time. *See generally* Ray Decl. This failure caused no prejudice to any party, as the Board recently authorized these supplemental submissions, the date for institution is more than a month away, and the briefing is complete upon this final submission.

Petitioners oppose the submission of this motion for leave.

Respectfully submitted,

/s/ Brent P. Ray

Brent P. Ray (Reg. No. 54,390)

Lead Counsel for S. Edward Neister

Abby L. Parsons (Reg. No. 61,473)

Back-up Counsel for S. Edward Neister

Date: August 14, 2023
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **MOTION FOR
LEAVE TO SUBMIT PATENT OWNER SUR-REPLY OUT OF TIME and
EX-2031 (Declaration of B. Ray)** were served via electronic mail on August 14,
2023, in its entirety on the following:

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August 14, 2023