

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUNSPEC ALLIANCE,
Petitioner,

v.

TIGO ENERGY, INC.,
Patent Owner

Case IPR2023-01175
Patent No. 9,966,848 B2

**UNOPPOSED MOTION TO ACCEPT PATENT OWNER'S
PRELIMINARY RESPONSE**

As authorized by the Board on November 3, 2023, Patent Owner Tigo Energy, Inc. submits this Unopposed Motion to Accept Patent Owner's Preliminary Response ("Motion"). As shown herein, good cause exists to grant the Motion.

I. Statement of Facts

1. The Board issued the Notice of Filing Date Accorded in this matter on July 26, 2023. Patent Owner's Preliminary Response was, therefore, due October 26, 2023.

2. Patent Owner prepared and was ready to timely file its Patent Owner Preliminary Response ("POPR") on October 26, 2023. However, due to an inadvertent internal communication error, Patent Owner did not timely file its POPR.

3. Patent Owner recognized its error the morning of October 27, 2023, and immediately contacted counsel for Petitioner explaining the error. Patent Owner also filed the POPR on October 27, 2023, albeit 1-day late.

4. On November 2, 2023, counsel for Petitioner informed counsel for Patent Owner that it would not oppose Patent Owner's request for the POPR to be accepted 1-day late.

5. On November 2, 2023, Patent Owner informed the Board of the 1-day late POPR, sought authorization to file the instant Motion, and informed the Board that Petitioner would not oppose this Motion.

6. On November 3, 2023, the Board authorized the filing of the instant Motion, requiring that it be filed within 5 days.

II. Argument

Patent Owner hereby motions the Board to accept the POPR filed October 27, 2023. “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 interests of justice.” 37 C.F.R. § 42.5(c)(3). Good cause and the interests of justice support granting the Motion.

Good cause exists because the POPR was completed before the filing deadline of October 26, 2023. Indeed, the same arguments raised in the POPR were timely filed and served on Petitioner in a related *inter partes* review (IPR2023-01133) on October 20, 2023. Patent Owner conformed that POPR for filing in this proceeding (IPR2023-01175) and a final version for filing was completed on October 24, 2023. Due to a misunderstanding between Mr. Briggs (the undersigned) and administrative staff, the POPR was not timely filed on October 26. Mr. Briggs identified the error early on October 27, after which Mr. Briggs filed and served the POPR, contacted counsel for Petitioner seeking its position on the late filing and to coordinate with Petitioner on Patent Owner’s request for permission to file this unopposed motion. Patent Owner submits accepting the late POPR in this matter would not unduly prejudice Petitioner because the related POPR for IPR2023-01133 includes

materially the same arguments and because the delay in filing the POPR was short (1 day), inadvertent, and promptly cured. Accordingly, good cause exists.

It is also in the interest of justice to accept Patent Owner's late POPR filing. The Board permits late POPR filings where, as here, the POPR may help simplify and clarify the issues before the Board. *See, e.g., Taylor Made Golf Co. v. Parsons Xtreme Golf, LLC*, IPR2018-00675, Paper 19 (Aug. 30, 2018); *Corelogic, Inc. v. Boundary Solutions, Inc.*, IPR2015-00219, Paper 32 (Oct. 27, 2015). As in those cases, reviewing the POPR will help the Board determine whether there is a reason to institute trial and the POPR is Patent Owner's only pre-institution chance to offer Patent Owner's perspective on the merits of the Petition. Moreover, as noted above, the POPR in this proceeding raises the same arguments that were timely filed and served on Petitioner's counsel in IPR2023-01133, so the one-day delay in filing will not prejudice Petitioner or the Board's review of the arguments presented in the POPR.

For these reasons, the Board should grant this Motion.

Respectfully submitted,

GREENBERG TRAURIG, LLP

Date: November 7, 2023

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of this Unopposed Motion to Accept Patent Owner's Preliminary Response has been electronically served on Petitioner by emailing the following addresses:

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GREENBERG TRAURIG, LLP

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