

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

HEADWATER RESEARCH LLC,
Patent Owner.

IPR2023-01462
Patent 9,277,445

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

PATENT OWNER’S EXHIBIT LIST

No.	Description
Ex. 2001	IPR Petition, <i>Samsung Elecs. Co. v. Headwater Research LLC</i> , IPR2023-01253, Paper No. 2 (PTAB Aug. 11, 2023)
Ex. 2002	IPR Petition, <i>Samsung Elecs. Co. v. Headwater Research LLC</i> , IPR2023-01337, Paper No. 2 (PTAB Aug. 25, 2023)
Ex. 2003	IPR Petition, <i>Samsung Elecs. Co. v. Headwater Research LLC</i> , IPR2023-01336, Paper No. 2 (PTAB Aug. 25, 2023)
Ex. 2004	IPR Petition, <i>Samsung Elecs. Co. v. Headwater Research LLC</i> , IPR2023-01361, Paper No. 3 (PTAB Sept. 8, 2023)
Ex. 2005	Email correspondence between the Board and Patent Owner’s counsel, dated January 5-9, 2024
Ex. 2006	Email correspondence between the Board and Patent Owner’s counsel, dated January 4-5, 2024

Motion to Accept Preliminary Response
IPR2023-01462 (U.S. Patent No. 9,277,445)

Patent Owner respectfully requests that the Board accept Patent Owner's one-day late filing of its preliminary response (Paper 6, "POPR") under 37 C.F.R. § 42.5(c)(3). Good cause exists because, due to an administrative oversight, Patent Owner inadvertently did not timely file its Mandatory Notices and Power of Attorney in this proceeding and as a result could not timely file its POPR. This oversight was not discovered until the evening of the deadline for the POPR, January 4, 2024. The POPR and associated exhibits (Exs. 2001-2004) were timely served on Petitioner. *See* POPR at 33 (indicating a POPR service date of January 4, 2024); *see also* Ex. 2006 at 2. This Motion was authorized by the Board's email of January 9, 2024. Ex. 2005 at 1. Petitioner does not oppose Patent Owner's Motion.

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 interests of justice." Here, both good cause and the interests of justice support excusing Patent Owner's one-day late filing.

On January 4, 2024, the POPR due date, Patent Owner attempted to file its POPR and associated exhibits via P-TACTS. However, Patent Owner was unable to do so because it had inadvertently not previously filed its Mandatory Notices and Power of Attorney due to an administrative oversight. This issue was not discovered until the evening of January 4, 2024, at which point it was too late for Patent Owner's counsel to obtain an executed Power of Attorney from Patent Owner. Moreover,

even if that would have been possible, and Patent Owner managed to file the Power of Attorney and its Mandatory Notices that evening, the Board would still have needed to review and accept the Mandatory Notices, which would likely not have occurred after business hours that day.

Upon realizing this issue, Patent Owner promptly served both Petitioner and the Board with a link to access the POPR and associated exhibits at 11:43 p.m. ET on January 4, 2024. Ex. 2006 at 2. The next morning, January 5, 2024, Patent Owner promptly obtained the executed Power of Attorney from its client and filed the Power of Attorney and the Mandatory Notices on P-TACTS at 12:47pm ET. Papers 4-5. Also on the morning of January 5, the Board informed Patent Owner that it could not receive materials via link “[d]ue to cybersecurity protocols.” *Id.* Patent Owner then promptly provided the POPR and associated exhibits to the Board via email, and also informed the Board that it had filed its Power of Attorney and Mandatory Notices. Ex. 2005 at 2-3. Once the Mandatory Notices were reviewed and accepted by the Board, which occurred at 1:51 p.m. ET on January 5, Patent Owner filed the POPR (Paper 6) and associated exhibits (Ex. 2001-2004) on P-TACTS at 2:28 p.m. ET.

In short, although Patent Owner was unable to file the POPR and the associated exhibits on P-TACTS prior to the deadline, Patent Owner served Petitioner with those materials prior to the deadline and also attempted to provide

those materials to the Board in that timeframe as well. Patent Owner then promptly filed the required Power of Attorney and Mandatory Notices, and once the latter were reviewed and accepted by the Board, promptly filed the POPR and associated exhibits on P-TACTS. It would, therefore, be in the interests of justice to excuse the late filing and consider the POPR and associated exhibits. *See, e.g., Microsoft Corp. v. Lemko Corp.*, IPR2023-00529, Paper 10 (PTAB Sept. 26, 2023) (excusing one-day late POPR filing as in the interests of justice where patent owner served petitioner before the deadline and filed the POPR as soon as practicable).

In view of the foregoing, Patent Owner respectfully requests that the Board excuse Patent Owner's one-day late filing.

Date: January 10, 2024

Respectfully submitted,

/Amy E. Hayden/

Reza Mirzaie, Reg. No. 69,138

Marc A. Fenster, *pro hac vice* forthcoming

Dale Chang, Reg. No. 61,476

Amy E. Hayden, Reg. No. 64,817

Neil A. Rubin, Reg. No. 67,030

Philip X. Wang, Reg. No. 74,621

James A. Milkey, Reg. No. 79,503

RUSS, AUGUST & KABAT

12424 Wilshire Blvd., 12th Floor

Los Angeles, CA 90025

Counsel for Patent Owner

CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e)(1))

The undersigned hereby certifies that the above document was served on January 10, 2024, by filing this document through the Patent Trial and Appeal Case Tracking System as well as delivering a copy via electronic mail upon the following attorneys of record for the Petitioner:

W. Karl Renner (Reg. No. 41,265)
Jeremy J. Monaldo (Reg. No. 58,680)
FISH & RICHARDSON P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
IPR39843-0162IP1@fr.com
PTABInbound@fr.com
ptab@fr.com
jjm@fr.com
devoto@fr.com

Date: January 10, 2024

/Amy E. Hayden/
Reza Mirzaie, Reg. No. 69,138
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Philip X. Wang, Reg. No. 74,621
James A. Milkey, Reg. No. 79,503
RUSS, AUGUST & KABAT
12424 Wilshire Blvd., 12th Floor
Los Angeles, CA 90025

Counsel for Patent Owner