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Sent: Tuesday, January 23, 2024 12:57 PM

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Subject: Aylo v DISH - IPR2024-00044 - Request to correct POPR filing date

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Dear Honorable Board:

We write as counsel for Patent Owner to seek leave to file a motion requesting a short a retroactive extension of time to file Patent Owner's Preliminary Response in IPR2024-00044, or in the alternative seeking the Board deem the POPR timely filed.

In particular, on Thursday night (1/18), DISH filed its Patent Owner Preliminary Responses for the first six IPRs filed by Aylo against DISH's patents (IPR2024-00043 through -00048). While five of the six were timely filed, the POPR for IPR2024-00044 was not fully filed until 12:03 am due to unanticipated delays in uploading files associated with the six POPRs into the PTAB system.

DISH requests the Board deem the POPR in IPR2024-00044 as timely filed, or permit DISH to file a motion seeking a retroactive extension of time to excuse the late filing. Patent Owner believes good cause supports this request as the delay was short (3 minutes) and Petitioner was not prejudiced, based on the substantial similarity between the POPR for IPR2024-00044 and the 5 others that were timely filed, and because no response is permitted to the POPRs as of right. *See, e.g., Taylor Made Golf Co., Inc. v. Parsons Xtreme Golf, LLC*, IPR2018-00675, Paper No. 19 (PTAB Aug. 30, 2018) (finding that POPR filed 36 minutes late and served 54 minutes after midnight should be deemed timely filed because it was in the interests of justice and there was a lack of prejudice to the petitioner); *Formlabs, Inc. v. VisionTEC, Inc.*, IPR2017-01258, Paper No. 11 (PTAB Sept. 22, 2017) (interests of justice warranted treating POPR as timely filed despite being filed next day).

We have conferred with counsel for Petitioner who has indicated ***this request is unopposed.***

Respectfully,

Eliot D. Williams

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