

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIZIO, INC.,
Petitioner

v.

POLARIS POWERLED TECHs, LLC,
Patent Owner

IPR2024-00073
Patent No. 7,843,148 B2

Before JOHN F. HORVATH, DANIEL J. GALLIGAN,
KARA L. SZPONDOWSKI, *Administrative Patent Judges*

HORVATH, *Administrative Patent Judge.*

ORDER
Conduct of Proceeding
37 C.F.R. § 42.5

INTRODUCTION

On April 1, 2024, with Board permission, Vizio, Inc. (“Petitioner”) filed an unopposed motion to file a Corrected Petition. Paper 9 (“Mot.” or “Motion”).¹ In its Motion, Petitioner certifies that the only change in the Corrected Petition was correction of a typographical error that appeared on page 45 of the Petition filed on October 20, 2023. Mot. 1. That error incorrectly referenced paragraph 197 of Exhibit 1003, and has been corrected to reference paragraph 107 of Exhibit 1003. *Id.*

DISCUSSION

A petitioner may file a motion “that seeks to correct a clerical or typographical mistake in [a] petition” and, if granted, the correction “does not change the filing date of the petition.” 37 C.F.R. § 42.104(c). Petitioner identifies the following four factors for consideration in deciding whether to allow a corrected petition:

1. The nature of the error and whether the party requesting relief provides adequate explanation for how the error occurred and how it was discovered;
2. The length of time elapsed between when the party learned of the error and brought the error to the Board’s attention;
3. Any prejudice to the non-moving party that would result from granting the motion; and
4. What impact, if any, the proposed corrections would have on the proceeding.

¹ The Corrected Petition is attached as Appendix A to the Motion.

Mot. 1–2 (citing *Ivantis, Inc. v. Glaukos Corp.*, IPR2018-01180, Paper 14 at 9 (PTAB, Dec. 6, 2018)). Petitioner argues that each of these factors favors granting its Motion to Correct the Petition. Mot. 2.

Factor 1: The Nature of the Error

Petitioner contends this factor favors granting the motion because the citation to paragraph 197 of Exhibit 1003 on page 45 was a typographical error. This is so, Petitioner argues, because the citations to Exhibit 1003 immediately preceding and following the citation to paragraph 197 were to paragraphs 106 and 108, respectively. *Id.* Thus, Petitioner contends, the correct citation should be to paragraph 107, which supports the arguments made on page 45, whereas paragraph 197 does not. *Id.* Petitioner states that it first discovered this error on March 20, 2024 when reviewing Patent Owner’s Objections to Evidence, which were served that same day. *Id.* at 2–3.

Factor 2: Timeliness of Board Notification

Petitioner contends that upon discovering the error on March 20, 2024, it conferred with Patent Owner on March 21, 2024 regarding moving to correct the error and requested Board permission to file its Motion to Correct the Petition on March 25, 2024. *Id.* at 3. Therefore, Petitioner argues, this factor also favors granting the motion.

Factor 3: Prejudice to Polaris PowerLED Techs.

Petitioner contends this factor favors granting the motion because correcting the typographical error would not prejudice Patent Owner and is unopposed by Patent Owner. *Id.*

Factor 4: Impact on the Proceeding

Petitioner contends this factor also favors granting the motion because correcting the typographical error would not have any impact on the proceeding and is unopposed by Patent Owner. *Id.*

We find factors 1–4 reasonably demonstrate the original Petition’s page 45 citation to Exhibit 1003 ¶ 197 was a typographical error, the correct citation should be to Exhibit 1003 ¶ 107, and Petitioner seasonably sought to correct the error. We further find correcting the error will not prejudice Patent Owner or adversely impact the nature or conduct of this proceeding. Accordingly, we grant Petitioner’s Motion to Correct the Petition.

ORDER

It is

ORDERED that Petitioner’s Motion to Correct the Petition is *granted*;

FURTHER ORDERED that the filing date of the Corrected Petition is October 20, 2023, the same date as the filing date of the original Petition;

FURTHER ORDERED that the Corrected Petition shall be filed by the Board as Paper 16; and

FURTHER ORDERED that in all subsequent filings in this proceeding the parties shall cite to either the Corrected Petition or Paper 16, and that any reference to the Petition in subsequent papers shall be deemed to refer to Paper 16.

IPR2024-00073
Patent 7,843,148 B2

For PETITIONER:

Sheila Swaroop
Marko Zoretic
Daniel Kiang
KNOBBE, MARTENS, OLSON & BEAR, LLP
2sns@knobbe.com
2mrz@knobbe.com
2dck@knobbe.com

For PATENT OWNER:

David Alberti
Russell Tonkovich
KRAMER ALBERTI LIM & TONKOVICH LLP
dalberti@krameralberti.com
rtonkovich@krameralberti.com

Jason Fitzsimmons
Richard Bemben
Jennifer Chagnon
Michael Specht
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
jfitzsimmons-ptab@sternekessler.com
rbemben-ptab@sternekessler.com
jchagnon-ptab@sternekessler.com
mspecht-ptab@sternekessler.com