UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHARKNINJA, INC., SHARKNINJA OPERATING LLC,
SHARKNINJA MANAGEMENT LLC, AND
SHARKNINJA SALES COMPANY,
Petitioners,

v.

DYSON TECHNOLOGY LIMITED,
Patent Owner.

Case No. IPR2024-00219
U.S. Patent No. 11,589,660

PETITIONER'S UNOPPOSED MOTION TO CORRECT PETITION UNDER 37 C.F.R. § 42.104(C)

PETITIONERS' UPDATED EXHIBIT LIST

Exhibit No.	Description
1001	U.S. Patent No. 11,589,660
1002	File History for U.S. Patent No. 11,589,660
1003	Declaration of Dr. Nosenchuck
1004	U.S. Patent No. 4,943,182 ("Hoblingre")
1005	Certified Translation of European Patent Application No. EP0791758 ("Mouhot")
1006	European Patent Application No. EP0791758 ("Mouhot")
1007	U.S. Patent Application Publication No. 2015/0265022 ("Maclaine")
1008	U.S. Patent No. 6,161,244 ("Jeannet")
1009	U.S. Patent No. 5,715,847 ("Rolf")
1010	U.S. Patent No. 7,876,373 ("Ochi")
1011	Redline reflecting proposed changes to Petition

Petitioners SharkNinja, Inc., SharkNinja Operating LLC, SharkNinja Management LLC, and SharkNinja Sales Company respectfully submit this motion under 37 C.F.R. § 42.104(c) to correct certain typographical errors. As explained in more detail below, the petition contains inadvertent typographical errors. Patent Owner does not oppose this motion. The Board authorized Petitioners to file this Motion on March 18, 2024.

I. Factual Background

The Ground 6 discussion of claim elements 33[a]–33[d] contains four internal cross-references that respectively reference the discussion in Sections IV.C.2.a–d, rather than Sections IV.D.2.b–e. The errors occurred due to internal editing. Such typographical errors are clerical in nature and at most relate to the location of certain discussion within the petition and not the content of that discussion. *NetApp, Inc. v. Intellectual Ventures II LLC*, IPR2017-00276 (PTAB May 5, 2017), Paper 12 at 4.

On March 8, 2024, Patent Owner filed its Patent Owner Preliminary Response, noting that the "cross-reference citations to § IV.C.2.a-d" with respect to claim elements 33[a]-[d] in Ground 6 "are erroneous." Paper 6 at 44. Upon reviewing the POPR and the petition, counsel for Petitioners promptly investigated the extent and cause of the errors.

On March 15, 2024, counsel for Petitioners contacted counsel for Patent Owner to notify Patent Owner that the erroneous citations identified in the POPR

contained typographical errors and asked whether Patent Owner would oppose a motion to correct the petition. At Patent Owner's request, Petitioners provided the proposed revisions to the citations. On March 18, 2024, counsel for Patent Owner stated that they would not oppose this motion.

II. Applicable Rules

Per 37 CFR § 42.104(c), "[a] motion may be filed that seeks to correct a clerical or typographical mistake in the petition. The grant of such a motion does not change the filing date of the petition." The Board considers following non-exhaustive factors to consider when deciding whether to permit correction:

- The nature of the error, and whether the petitioner provides adequate explanation for how the error occurred and was discovered.
- The amount of time between learning of the error and bringing the error to the Board's attention.
- Prejudice to the patent owner, if any, by allowing the proposed corrections.
- Whether the proposed corrections have any impact on the proceeding.

See Sweegen, Inc. v. Purecircle Sdn Bhd, PGR2020-00070 (PTAB Sep. 22, 2020), Paper 9 at 5.

III. Discussion

The Board has the power to correct clerical mistakes in a petition under 37 C.F.R. § 42.104(c), and has done so to correct a variety of clerical errors. *See, e.g.*,

Resmed, Inc. v. New York Univ., IPR2022-00994 (PTAB Sep. 16, 2022), Paper 11 at 8–9 (correcting incorrect citation to non-filed Exhibit 1020 and omission of cited Exhibit 1021 from exhibit list); *Bank of Amer., N.A. v. Nant Holdings IP, LLC*, IPR2021-01081 (PTAB Sep. 16, 2021), Paper 8 at 2–3 (correcting incomplete citation, where context suggests the correct information); *Qualcomm Inc. v. Monterey Research, LLC*, IPR2021-00120, IPR2021-00121 (PTAB Mar. 23, 2021), Paper 12 at 4–5 (correcting unintendedly illogical sentence). In particular, the Board has granted motions to correct citations to incorrect sections within the same petition arising from human error. *Attends Healthcare Prods., Inc. v. Paul Hartmann AG*, IPR2020-01480 (PTAB Feb. 19, 2021), Paper 11 at 5–6.

Counsel for Petitioners has been diligent in bringing the error to the Board's attention—only six business days have elapsed between the discovery of the error and Petitioners' request for leave to file this motion. Counsel for Petitioners contacted counsel for Patent Owner within five business days of discovering the errors and contacted the Board to request leave to file the motion the next business day, once the parties conferred.

There is no prejudice to Patent Owner, as this motion merely seeks to correct citations (cross-references) within the petition from a section referring to different pieces of prior art to their logical target. No new evidence or arguments have been introduced, and Patent Owner, who first identified the error, has notice of the

proposed citation corrections. As demonstrated by Patent Owner's understanding that (1) Section IV.C.2 contains discussion of the combination of "Hoblingre in view of Maclaine and Jeannet . . . [t]here is no mention of Mouhot, which is the primary reference in Ground 6" and (2) "the cross-reference citations to § IV.C.2a-d are erroneous because they refer to the incorrect limitation," Patent Owner recognized the error and its cure. Paper 6 at 44. Additionally, "Patent Owner reasonably [can] identif[y] the right section for the Petition's citation" based on the prior art references identified in the section "by referring to the Petition's Table of Contents (among other places)" and the citations to specific sections of Dr. Nosenchuck's declaration, which include string citations to specific evidence cited in Sections IV.D.2.b–e. IPR2020-01480, Paper 11 at 7.

Finally, Petitioners are not time-barred and could file another petition to seek the requested corrections. Pursuing that route, however, would be wasteful of Petitioners', Patent Owner's, and the Board's resources, particularly given the clerical nature of these errors. *See id.*

IV. Conclusion

For the reasons stated above, Petitioners respectfully request that the Board grant this motion to correct the petition.

DATED: March 19, 2024

Respectfully Submitted,

/Brian M. Buroker/

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CERTIFICATE OF SERVICE

The undersigned certifies that on March 19, 2024, a complete copy of the foregoing document was served via email to all parties to this proceeding at the addresses indicated:

Chris Bruenjes, christopher.bruenjes@faegredrinker.com

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DATED: March 19, 2024

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