

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DECENT ESPRESSO INTERNATIONAL LTD.,

Petitioner,

v.

DUVALL ESPRESSO IP ENFORCEMENT, LLC,

Patent Owner

IPR2024-01492
Patent No. 10,772,456

PATENT OWNER'S MOTION FOR EXTENSION UNDER 37 C.F.R. § 42.5

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I. PROCEDURAL BACKGROUND

On September 26, 2024, the Petitioner filed its IPR Petition in the above-referenced proceeding (Paper 1) and on September 25, 2024, the Petitioner also filed its IPR Petition against U.S. Patent No. 11,576,524. *See* Paper 1; *see also* Paper 1, 2024-01483. On October 11, 2024, the Board issued a Notice of Filing Accorded to Petition and Time for Filing Patent Owner Preliminary Response (“Paper 5”) in the above-referenced proceeding and in IPR2024-01483, giving Patent Owner until January 11, 2025, to file preliminary response for both petitions. Paper 5, at 1. January 11, 2025, falls on a weekend, thereby moving said deadline to January 13, 2025. *See* 35 U.S.C. § 21(b).

II. GOOD CAUSE EXISTS FOR AN EXTENSION

The rules provide the Board the ability to grant a party an extension of time if a showing of good cause is shown. 37 C.F.R. § 42.5(c)(2). The Federal Circuit has examined the “good cause” standard with respect to extensions before the period to respond has expired by factoring in whether the requesting party has shown negligence or bad faith, whether in prior extensions have been requested, and length of requested extension. *See Araujo v. Framboise Holdings Inc.*, 99 F.4th 1377, 1380 (Fed. Cir. 2024); *see also Ultratec, Inc. v. CaptionCall, LLC*, 872 F.3d 1267, 1272 (Fed. Cir. 20217) (“Specifically, to show good cause, a party would be required to make a particular and specific demonstration of fact.”)

Patent Owner respectfully requests a three-week extension from the 1/11/25 deadline in which to file its preliminary responses to Patent Owner's petitions, i.e., up and through February 3, 2025. The petitions in IPR2024-01483 and 2024-01492 assert multiple grounds and multiple references in said grounds against all claims of the patents challenged, and are each over seventy-five pages in length, not including exhibits. *See* Paper 1; *see also* Paper 1, 2024-01483. Patent Owner's preliminary responses are going to be principally prepared by undersigned counsel, who also has, and had, an active transactional and litigation docket, including acting as lead counsel in *Barrco Consumer Products Inc. v. Bajaj*, case no. 23-cv-01180 (M.D. Fla.) (wherein said case was scheduled for January 2025 trial docket that undersigned was preparing for and that was just recently moved by the Court to a February trial docket). This is Patent Owner's first requested extension and Patent Owner submits the requested three-extension is minimal considering the grounds asserted in the petitions and also considering the multiple Federal holidays that occurred in November, December, and January that resulted in the undersigned's firm closure for said holidays. Patent Owner has also reached out to opposing counsel in this matter, who does not oppose the relief requested herein.

III. RELIEF REQUESTED

For the reasons set forth above, Patent Owner submits good cause has been demonstrated and respectfully requests until February 3, 2025, to file its preliminary response to the petition in the underlying proceeding.

Respectfully submitted,

Dated: 1/10/2025

/Mark C. Johnson/

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served on January 10, 2025, via email to counsel for Petitioner, i.e., Perry S. Clegg (perry.clegg@johnsonmartinlaw.com), Matthew S. Nelles (matt.nelles@johnsonmartinlaw.com), and James David Johnson (david.johnson@johnsonmartinlaw.com).

Respectfully submitted,

/Mark C. Johnson/

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Counsel for Patent Owner