UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KUBOTA NORTH AMERICA CORPORATION,
Petitioner,

v.

VERMEER MANUFACTURING COMPANY,
Patent Owner.

IPR2025-00168
Patent No. 9,321,386

MOTION TO EXCUSE LATE FILING OF PATENT OWNER'S RESPONSE

Pursuant to 37 C.F.R. § 42.5(c)(3), Patent Owner Vermeer Manufacturing Company ("Vermeer") moves the Board for an order excusing the late filing of its Patent Owner's Response and accompanying papers and deeming all as timely filed. The Board approved the filing of this motion by email on September 8, 2025. Petitioner does not oppose this motion.

The Board may excuse a party's late action upon "a showing of good cause or upon a Board decision that the consideration on the merits would be in the interests of justice." 37 C.F.R. § 42.5(c)(3). Vermeer encountered technical difficulties during filing that compounded an already challenging and time-intensive process of submitting briefing in five related but separate proceedings all due on the same day: IPR2025-167; IPR2025-168; IPR2025-169; IPR2025-170; and IPR2025-171 (collectively, "the Proceedings"). Those difficulties and challenges give rise to the need for Vermeer's present motion.

Vermeer's Response was due on September 3, 2025 in each of the five Proceedings. For those Proceedings, Vermeer was required to submit its Response, expert declaration, and certain exhibit documents under seal (and was also required to submit its Response and expert declaration in redacted form) because they contained information designated confidential by Petitioner. During final review, redaction, and filing of each matter's papers, counsel's team encountered network connectivity issues that significantly delayed those operations. The connectivity

issues Vermeer encountered were multiplied across each of the significant number of individual papers that Vermeer needed to redact and file. It is unclear to Patent Owner whether all of these technical issues were the result of an internal network/system problem or whether some were the result of a connectivity issue between Patent Owner's systems and the Patent Office. Regardless, because of those issues the administrative process of preparing and filing Patent Owner's papers took almost five hours to complete.

Due to the issues Vermeer encountered, the final papers in each proceeding were filed several hours after the deadline. Vermeer also served Petitioner's counsel with copies of those papers (sealed and public) immediately after the filings were completed. Given the foregoing technical issues, Vermeer respectfully asks the Board to find that good cause exists to excuse its late filing. *See Polycom, Inc. v. Directpacket Rsch., Inc.*, No. IPR2019-01235, Paper 34 (P.T.A.B. June 16, 2020); *Unified Patents, LLC v. Quarts Auto Techs. LLC*, No. IPR2020-01118, Paper 9 (P.T.A.B. Nov. 5, 2020). Vermeer's counsel is already taking steps internally to ensure that the problems it encountered will not reoccur with future filings.

Vermeer respectfully asserts that the Board should also excuse its late filings because doing so would be in the interests of justice. *See* 37 C.F.R. § 42.5(c)(3); *Microsoft Corp. & HP Inc. v. Synkloud Techs., LLC*, No. IPR2020-01269, 2021 WL 3175897, at *1 (P.T.A.B. July 26, 2021) ("[M]ost importantly, we conclude that it

would be in the interests of justice to consider Patent Owner's arguments and evidence before coming to a final decision on the patentability of any claim for which we have instituted an *inter partes* review.").

The several hours delay in Vermeer's filings occurred entirely outside of business hours and has caused no prejudice to Petitioner. Vermeer offered Petitioner an extension of its deadline for filing a reply in the impacted matters, but Petitioner declined—suggesting that Vermeer's filing delay did not impact Petitioner's ability to prepare its subsequent briefing.

In contrast, Vermeer would experience significant prejudice if its Patent Owner Response and accompanying papers were not considered in the affected proceedings. Excusing the late filing will permit both parties to present complete arguments and evidence supporting their positions. Petitioner has also indicated that it does not oppose the relief Vermeer requests.

For these reasons, Vermeer respectfully requests that the Board excuse the late filing of its Patent Owner's Response and accompanying papers (Papers 22–25 and Exhibits 2016–2032, 2036–2038) and deem them timely filed.

Date: September 9, 2025.

Respectfully submitted,

/*Richard Brophy*/

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CERTIFICATE OF SERVICE

Under 37 C.F.R. § 42.6(e), the undersigned certified that on September 9, 2025, a copy of this document was served via electronic mail on the following attorneys of record:

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