

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LAM RESEARCH CORP.,
Petitioner,

v.

INPRIA CORP.,
Patent Owner.

Case IPR2025-00309
Patent No. 11,537,048

**MOTION TO CORRECT FILING DATE OR,
ALTERNATIVELY, DEEM PETITION TIMELY**

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I. INTRODUCTION

Petitioner Lam Research Corporation (“Petitioner”) respectfully moves to (i) correct the filing date of *Inter Partes* Review Petition IPR2025-00309 (the “Petition”) to December 13, 2024, or (ii) alternatively deem the Petition timely under 35 U.S.C. § 315(b) because it was filed within a year of the effective service date of the pertinent complaint.

II. STATEMENT OF MATERIAL FACTS

On December 13, 2023, at 5:03 p.m. ET, Patent Owner (“PO”) filed an amended complaint in the parallel district court action, in which it first alleged infringement of U.S. Patent No. 11,537,048 (the “’048 Patent”). Ex. 1022, Gorman Decl. ¶¶ 5-12, Ex. A (Docket Sheet), Ex. B (NEF Email). The Petition, including all exhibits, exhibit list, and POA (collectively, “Uploaded Petition”) was uploaded onto the Patent Trial and Appeal Case Tracking System (P-TACTS) on December 13, 2024. Ex. 2023, Doris Decl. ¶¶ 3-4, Ex. A (“Case Viewer”). Although all documents were uploaded and the “Submit Payment” button was pressed on December 13, the “Fee payments receipt” was not confirmed until 12:00:27 a.m. ET on December 14, potentially due to slow processing from high system traffic. Ex. 1023, Doris Decl. ¶¶ 5-7, Ex. B (“Fee payments receipt”). On December 14, 2024, at 12:40 a.m. ET, a courtesy copy of the Uploaded Petition was emailed to litigation counsel, and the Uploaded Petition was deposited in an Express Mail carrier’s

overnight drop box for service on the Patent Owner’s correspondence address of record. Ex. 1024, Gillen Decl. ¶¶ 3-7, Ex. A (USPS box picture), Ex. B (USPS.com), Ex. C (Service Email). On February 12, 2025, a Notice of Filing Date Accorded was issued and identified December 14, 2024, as the accorded filing date. Paper 6. On April 24, 2025, the Deputy Chief Clerk authorized this Motion. Ex. 1025.

III. ARGUMENT

A. The Petition Should Be Accorded a December 13, 2024 Filing Date

Respectfully, the Board should accord the Petition a December 13, 2024, filing date. The Practice Guide states that “[t]he rules are to be construed so as to ensure the just, speedy, and inexpensive resolution of a proceeding and, where appropriate, the rules may be modified to accomplish these goals.” Consolidated Trial Practice Guide at Section I (Nov. 2019). Correcting the date here is warranted to prevent injustice from a 27 second delay due to technical error.

1. The Uploaded Petition Complied with the Requirements

The Uploaded Petition satisfied the **statutory requirements** for consideration as of December 13, 2024. Specifically, 35 U.S.C. § 312(a) outlines the content requirements for a petition—such as payment of the fee, identification of real parties in interest, and specific grounds for challenge—which were all satisfied here. The relevant timing requirement, however, is set forth in 35 U.S.C. § 315(b), which provides that “[a]n inter partes review may not be instituted if the *petition* requesting

the proceeding *is filed* more than 1 year after the date on which the petitioner, real party in interest, or privy of the petitioner is served with a complaint alleging infringement of the patent.” Here, because the *Petition was filed* on December 13, 2024, it technically meets the statutory deadline provision of § 315(b).

It also complied with all **regulatory requirements** set forth in 35 U.S.C. § 312(a)(2)-(4) and 37 C.F.R. § 42.104 as of December 13, 2024, except that the confirmation of payment lagged by less than 30 seconds, with the payment receipt timestamped at 12:00:29 a.m. ET on December 14. Ex. 1023, ¶¶ 3-7, Exs. A-B. Thus, the Rules were not strictly met because 37 C.F.R. § 42.106(a) states “[a] petition to institute inter partes review will **not be accorded a filing date until the petition... [i]s accompanied by the fee to institute required in § 42.15(a).**”

2. Correcting the Date Aligns with Board Practice

The Board has authority under Rule 42.6(b)(1) to waive or suspend its rules to account for this lag. In similar cases, the Board has done so to correct filing dates. For example, in *2Wire, Inc. v. TQ Delta LLC*, IPR2015-00239, Paper 10 at 4 (Jan. 15, 2015) and *ABB Inc. v. Roy-G-Biv Corp.*, IPR2013-00063, Paper 21 at 8 (Jan. 16, 2013), the Board granted earlier dates despite the “submit” button not being pressed on the earlier date. *See also Apple Inc. v. Whitserve, LLC*, IPR2014-00268, Paper 16 at 7 (excusing error in uploading documents).

Here, unlike in *2Wire* and *ABB*, the submit button was clicked on December

13. Ex. 1023, ¶¶ 3-7. But the payment processing delayed the “Fee payments receipt” confirmation until 12:00:27 a.m. on December 14, 2024. *Id.* Due to this technical error, the Board is respectfully asked to correct the filing date. *2Wire*, Paper 10 at 4.

3. Patent Owner Is Not Prejudiced

Shortly after filing, the Petition was sent via overnight Express Mail to PO’s address of record, and a courtesy copy was emailed to its district court counsel. Ex. 1024, ¶¶ 3-7, Exs. A-C. Thus, PO received adequate notice of the grounds. *Conmed*, Paper 18 at 5; *2Wire*, Paper 10 at 2-3. A 27-second delay does not prejudice PO’s ability to prepare and file a timely preliminary response. *ABB*, Paper 21 at 9-10.

B. Alternatively, the Petition Is Timely Because It Was Filed Within a Year of the Amended Complaint

Under 35 U.S.C. § 315(b), the time bar is triggered by service of a complaint alleging patent infringement. Here, PO’s amended complaint—which was the first time it alleged infringement of the ’048 Patent—was filed on December 13, 2023 at **5:03 p.m. ET**, and Petitioner was served via ECF Notification at that same time. Ex. 1022, ¶¶ 5, 12, Exs. A-B.

However, under District of Delaware rules, “all electronic transmissions of documents ... must be completed by 5:00 p.m. Eastern Time, in order to be considered timely filed and served that day.” *Revision to Elec. Case Filing Policies*

& Procs. at 1 (Aug. 16, 2022); *see also* Admin. Procs. Governing Filing & Serv. by Elec. Means at Section F (Rev. Jan. 2023); Ex. 1022, ¶¶ 6-10.

Here, because PO's amended complaint was filed after 5:00 p.m. on December 13, it is deemed filed on December 14. *Crystallex Int'l Corp. v. Bolivarian Republic of Venezuela*, No. MC 17-151-LPS, 2023 WL 2891452, at *6 n.10 (D. Del. Apr. 11, 2023) ("The motion is timestamped as having been filed on Friday, January 20, 2023. However, as it was filed after 5:00 p.m. that day, it is not considered to have been filed until Monday, January 23, 2023...."); Ex. 1022, ¶¶ 5-12. This also means that service was legally effective on December 14, not December 13. *See Lightricks Ltd. v. Plotagraph, Inc.*, No. IPR2023-00153, 2023 WL 6122053, at *4 (Sept. 5, 2023) ("defective service of a district court complaint does not trigger the time bar under § 315(b)"); *IpDatatel, LLC v. ICN Acquisition, LLC*, IPR2018-01823, Paper 17 at 10-18 (Apr. 17, 2019) ("served" in § 315(b) requires compliance with Fed. R. Civ. P. 4). Thus, even without correction of the filing date, the Petition was timely filed.

IV. CONCLUSION

For these reasons, Petitioner respectfully requests that the Board (i) correct the filing date to December 13, 2024, or (ii) alternatively, determine that the Petition is not time-barred under 35 U.S.C. § 315(b).

Dated: May 2, 2025

Respectfully Submitted,

/ Dion M. Bregman /
Dion M. Bregman (Reg. No. 45,645)
Morgan, Lewis & Bockius LLP

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. 42.6(e)(4), it is hereby certified that on May 2, 2025, copies of this Motion and all supporting exhibits were served via email on Patent Owner's counsel of record in this proceeding:

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Dated: May 2, 2025

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