

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QINGQING DUAN,
Petitioner,

v.

PATHWAY IP LLC,
Patent Owner.

IPR2025-01231
Patent 7,841,729 B2

Before BART A. GERSTENBLITH, KEVIN W. CHERRY, and
MARY C. HOFFMAN, *Administrative Patent Judges*.

HOFFMAN, *Administrative Patent Judge*.

ORDER

Denying Petitioner's Request to Modify Due Dates and
Accepting the Parties' Proposed Schedule for Additional Discovery
37 C.F.R. § 42.5

On July 30, 2026, the Board held a teleconference with the parties to discuss Petitioner's failure to file its Reply by Due Date 2, July 13, 2026, and Petitioner's request to change Due Dates 2, 3, 5, and 7 to August 10, 2026, September 21, 2026, October 5, 2026, and October 8, 2026, respectively. Ex. 3004. Patent Owner opposes this request. *Id.* For the reasons set forth below, the Board denies Petitioner's request.

On July 2, 2026, Petitioner contacted the Board to request an extension of time. Ex. 3004. Petitioner stated that

As the Board is aware, there are presently two pending motions that could affect whether this matters proceeds based on alleged real party-in-interest issues (Paper Nos. 21 and 23). The oppositions have been filed, but in the meantime Due Date 2 is approaching on July 6, 2026. Petitioner believes it is advisable for the parties to agree to extensions of time to be filed to permit the Board and the parties the opportunity to resolve the alleged real-party-in-interest issues. Petitioner believes that extensions could be agreed to by the parties, per the Scheduling Order (and without moving Due Dates 4, 6, 8, and 9), to accommodate such resolution.

Id. The same email explained that Patent Owner believes

an extension of Due Date 2 is not warranted. The RPI issues in this case were identified by Patent Owner early on, but Patent Owner was forced to unnecessarily incur substantial costs to obtain and present additional information (which was in Petitioner's possession) to the Board. Petitioner seeks to preclude wastage of its resources in case the RPI questions are decided against it. Such an extension ignores that the RPI problem is one of Petitioner's own making.

Id.

At the time of Petitioner's email, two motions (Petitioner's Motion to Substitute Party and Patent Owner's Motion for Additional Discovery) were

pending before the Board. Papers 21, 23. In our responsive email dated July 2, 2026, we granted a one-week extension of time, extending Due Date 2 to July 13, 2026. Ex. 3004. In that email, we stated, “if the parties have further questions about moving the due dates, they should contact the Board next week.” *Id.* The Board then granted both motions on July 10, 2026. Papers 28, 29. In our Order Granting Petitioner’s Motion to Substitute Party (Paper 28), the Board addressed another untimely filing by Petitioner in this proceeding, stating that “Petitioner is warned that we are unlikely to accept further untimely filings from Petitioner in this proceeding.”¹

Petitioner neither filed its Reply by the previously extended Due Date 2 (July 13, 2026) nor contacted the Board before that deadline to seek further relief.

On July 24, 2026, eleven days after extended Due Date 2, Petitioner emailed the Board to request a change to Due Dates 2, 3, 5, and 7. Ex. 3004. Petitioner explained that changing the schedule “avoid[s], as much as possible, overlap of the substantive briefing schedule and the anticipated motion practice on real parties in interest and discovery.” *Id.* Petitioner also indicated that it had emailed Patent Owner’s counsel after close of business

¹ The Board issued this warning due to Petitioner’s untimely filing of its Updated Mandatory Notices. Petitioner maintained that Ronglida was the real party in interest on January 1, 2026, despite Ronglida’s de-registration on December 11, 2025. Paper 9, 5. Ronglida’s de-registration was brought to the Board’s attention by Patent Owner on May 11, 2026. Ex. 3003. On May 20, 2026, more than five months after Ronglida’s de-registration, Petitioner filed its Updated Mandatory Notices naming Ms. Qingqing Duan as a real party in interest in this proceeding. Paper 19.

on Due Date 2 to discuss scheduling changes. *Id.* The email also indicated that Patent Owner opposes Petitioner's proposed scheduling changes. *Id.* Patent Owner also noted that Petitioner's newly proposed date for Due Date 2, August 10, 2026, is before completion of discovery on the real-party-in-interest issue (Ms. Duan's deposition is scheduled for August 13, 2026) and Patent Owner's deadline to file a motion to terminate (September 4, 2026). *Id.*; Ex. 2045.

Here, Petitioner failed to timely file its Reply by Due Date 2, despite our prior warning that further untimely filings from Petitioner were unlikely to be accepted. Petitioner also ignored the Board's explicit instruction to contact the Board if there were further questions about moving the due dates. Petitioner also waited until after close of business on Due Date 2 to discuss additional scheduling changes, including changes to Due Date 2, with Patent Owner. Furthermore, if a party is concerned about meeting a due date, it is incumbent on that party to notify the Board *prior to* missing the due date and, if that is not feasible, as quickly thereafter as possible. Petitioner did neither. It did not attempt to contact the Board the week before Due Date 2 as directed nor did it do so as quickly thereafter as possible. Instead, Petitioner waited over a week and a half to inform the Board of the missed deadline and ask for relief.

Additionally, Petitioner asserted, during the conference call on July 30, that it had a version of its Reply ready by Due Date 2. If true, another prudent approach would have been to file the brief and then seek relief from the Board to avoid missing a due date completely. As noted above, Petitioner did not do so.

Petitioner has not shown good cause for missing Due Date 2. We are mindful of conserving party and Board resources, but we are subject to statutory deadlines, and we never suggested that we would delay substantive briefing in the proceeding while resolving real-party-in-interest issues. To the contrary, our actions and correspondence with the parties reflect the opposite as the briefing deadlines have not been changed with the sole exception of previously providing Petitioner a one-week extension. We take the deadlines seriously and we expect the parties to do so as well. Petitioner's actions throughout the case (as noted above) reflect that Petitioner has not done the same. And, also as noted above, we previously cautioned Petitioner that we were unlikely to accept another untimely filing. Petitioner has not heeded our warning and now must bear the consequences of missing the due date for its Reply.

Additionally, Petitioner has not provided any reason to suggest that consideration of its unfiled Reply is in the interests of justice, and we do not determine that it is.

Accordingly, we find that Petitioner has neither established good cause for missing Due Date 2 nor that consideration of its unfiled Reply on the merits would be in the interests of justice. *See* 37 C.F.R. § 42.5(c)(3)) (“A late action will be excused on a showing of good cause or upon a Board decision that consideration on the merits would be in the interests of justice.”).

Thus, we deny Petitioner's request to change Due Dates 2, 3, 5, 7. Having missed Due Date 2, Petitioner has missed its opportunity to file a Reply in this proceeding. Correspondingly, because there will be no Reply, Patent Owner shall not file a Sur-reply.

Lastly, Patent Owner filed a proposed schedule (Exhibit 2045), agreed to by the parties, for additional discovery, a motion to terminate, and opposition. We accept the schedule proposed by the parties. Patent Owner will have up to ten (10) pages for its motion to terminate and Petitioner will have up to ten (10) pages for any opposition to said motion.

It is hereby

ORDERED that Petitioner's request to move Due Dates 2, 3, 5, and 7 is *denied*;

FURTHER ORDERED that Petitioner shall not file a Reply;

FURTHER ORDERED that Patent Owner shall not file a Sur-reply;
and

FURTHER ORDERED that the parties' proposed schedule (Exhibit 2045) for additional discovery, related motion to terminate, and opposition is accepted, with each party having up to ten (10) pages for its briefing.

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