

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TERUMO BCT INC.,

Petitioner

v.

HAEMONETICS CORP.,

Patent Owner

Case No. IPR2025-01391

U.S. Patent No. 10,758,652

**OPPOSITION TO MOTION TO CORRECT CLERICAL ERROR UNDER
37 C.F.R. § 42.104(c) AND TO SEEK LEAVE FOR DR. FLETCHER TO
SERVE AN AMENDED DECLARATION**

Petitioner's Motion to correct a purported clerical error should be denied. The Motion is untimely and allowing Petitioner to substantively amend its Petition, after Patent Owner has already filed its Preliminary Response, would unfairly advantage Petitioner to Patent Owner's detriment.

Petitioner is too late. Petitioner seeks leave to add an entirely omitted claim limitation—to *both* the Petition and expert declaration—three months after filing. Because the Motion was filed after Patent Owner submitted its Preliminary Response, any correction would necessarily delay the proceeding, increase costs, and should be denied. *See International Bus. Mach. Corp. v. Intellectual Ventures II, LLC*, IPR2014-00660, Paper 17 at 2-3 (July 31, 2014) (denying motion for correction).

Petitioner's omission was neither clerical nor typographical. Petitioner concedes that it overlooked a claim limitation, and Dr. Fletcher omitted the *same* limitation. Mot. at 2. While a Petitioner may correct a ministerial oversight, the Board has found that the same error appearing in the Petition and expert declaration is substantive, not clerical, and denied the motion to correct. *See Intellectual Ventures II*, IPR2014-00660, Paper 17 at 2; *Nitro Fluids, LLC. v. Cameron Int'l Corp.*, IPR2019-00852, Paper 20 at 5 (Nov. 12, 2019); *Amkor Tech., Inc. v. Tessera, Inc.*, IPR2013-00242, Paper 32 at 4 (Aug. 29, 2013) (“[Expert’s] analysis is subject to the same types of inconsistencies that are found in the Petition, and does not

support that the errors in the Petition were simply clerical or typographical”). It is not surprising that both the Petition and Dr. Fletcher’s declaration excluded the same claim limitation because the declaration and Petition are virtually identical. *See* Paper 8; *compare* Pet. with EX1003.

Even if clerical, Petitioner’s proposed correction would prejudice Patent Owner. In both cases cited by Petitioner, the motion to correct was filed prior to the Patent Owner’s Preliminary Response and thus posed no prejudice. *See Hum Indus. Tech., Inc. v. Amsted Rail Co., Inc.*, IPR2023-00538, Paper 9 at 5 (Apr. 11, 2023); *T-Mobile US, Inc. v. Advanced Media Net., LLC*, IPR2016-00347, Paper 10 at 3 (Mar. 2, 2016)¹. And, in both cases, Petitioner notified Patent Owner of the error within two weeks of filing, giving Petitioner ample time to address it in the Preliminary Response. *Id.*

Here, the prejudice is concrete. Petitioner sought leave only after Patent Owner filed its Preliminary Response. Because the Motion cannot change the Petition’s filing date, any correction at this juncture would now prejudice Patent Owner. 37 C.F.R. § 42.104(c). The missing limitation is not “substantively similar” to those in the Petition, as Petitioner suggests. Mot. at 2. Indeed, Petitioner refers to *three* separate limitations in claim 1 to cover the missing limitation, yet none

¹ The motion for correction filed in the *T-Mobile* case is also inapposite as it was filed unopposed.

include the claimed “outlet” of the blood component separation device in the omitted limitation of claim 11. Substance would necessarily be required to address the missing limitation in both the Petition and Patent Owner Preliminary Response.²

Petitioner was not diligent. In a parallel proceeding—where Petitioner also seeks correction—Patent Owner first identified an omitted claim limitation in its discretionary denial brief. *Terumo BCT, Inc. v. Haemonetics Corp.*, PGR2025-00078, Paper 6 at 17-18 (Nov. 17, 2025). The next day, Petitioner allegedly “identified” the omitted claim limitation here and informed Patent Owner. Mot. at 1. This is not diligence on Petitioner’s part, but a review of its own Petition, three months after filing, triggered by Patent Owner’s own briefing.

Petitioner should not be given another bite at the apple to correct this Petition and expert declaration, along with three others³. Doing so would not result in a just or speedy resolution, would increase costs to Patent Owner, and would improperly prejudice Patent Owner, who has already filed its Preliminary Response based on Petitioner’s omissions in these proceedings.

² Notably, Petitioner fails to include a redline of the proposed changes and Patent Owner is left to speculate as to what substance would be added by the correction. *See Hum Indus.*, IPR2023-00538, Paper 9 at 3, 5 (referring to the redline in granting the correction); *T-Mobile*, IPR2016-00347, Paper 10 at 2 (same).

³ Petitioner has simultaneously moved to correct three petitions and previously filed a corrected petition in PGR2026-00009, without leave.

Respectfully submitted,

/Erik B. Milch/

Dated: December 9, 2025

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on December 9, 2025, I caused a complete copy of Patent Owner's Opposition to Motion to Correct Clerical Error Under 37 C.F.R. § 42.104(c) and to Seek Leave for Dr. Fletcher to Serve an Amended Declaration, to be served on the Petitioner as follows:

Via and Electronic Mail to Petitioner's attorneys of record:

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