

**UNITED STATES PATENT AND TRADEMARK OFFICE**

---

**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

---

ENTEGRIS, INC.,

Petitioner,

v.

GUDENG PRECISION INDUSTRIAL CO., LTD.,

Patent Owner

---

Case PGR2026-00037

Patent 12,347,711

---

**PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION FOR  
EXTENSION OF TIME TO FILE PRELIMINARY RESPONSE  
PURSUANT TO 37 C.F.R. § 42.5**

## **TABLE OF CONTENTS**

|                                                                                         | <b>Page</b> |
|-----------------------------------------------------------------------------------------|-------------|
| I. Introduction.....                                                                    | 1           |
| II. Patent Owner’s Dereliction Is Not Good Cause for Extension.....                     | 2           |
| III. Granting the Requested Extension Does Not Advance the Interests of<br>Justice..... | 7           |
| IV. Conclusion .....                                                                    | 11          |

## **I. Introduction**

Patent Owner asks the Board to excuse months of delay, caused by Patent Owner's own inattention, and to reopen a deadline that expired three weeks before Patent Owner sought relief. But 37 C.F.R. § 42.5 requires good cause or a determination that consideration on the merits would serve the interests of justice. Patent Owner establishes neither.

There is no good cause for Patent Owner's request here. Its prosecution counsel undisputedly received the properly served Petition and the Board's filing-date notice in April 2026. Yet Patent Owner took no action for months. Patent Owner failed to submit its mandatory notices for over three months, missed its deadline for submitting a discretionary denial brief, missed the deadline for submitting a Preliminary Response, and failed to respond to multiple Board emails. Even after the Board followed up in early July 2026, Patent Owner delayed for several more weeks. Then, unbelievably, when Patent Owner finally determined to participate, it took no blame and instead improperly accused Petitioner of ineffective service, sending an *ex parte* communication to the Board that included misrepresentations about the service of the Petition. Even now, after finally conceding it has only itself to blame for its missed deadline, Patent Owner offers only unsupported attorney argument that its counsel purportedly failed to recognize the import of a clearly

marked service package containing a petition to institute a post-grant review proceeding. That unexplained law-office failure is not good cause.

Under these facts, an extension would also undermine, not serve, the interests of justice. Granting relief here would reward Patent Owner's pattern of improper conduct—including months of unexplained inaction in defiance of Board rules and leveling improper accusations against Petitioner rather than acknowledging its own failures. Here, given the extent of Patent Owner's delay, the requested extension would likely compress Petitioner's opportunity to seek leave to submit a reply to address Patent Owner's arguments or postpone the statutory institution timetable. Any postponement would also defer addressing the harm to proper competition caused by the erroneous issuance of the '711 Patent and prejudice Petitioner, a U.S. company, which has recently made significant investments to develop manufacturing facilities in Colorado for building complex semiconductor wafer carriers. Meanwhile, denial of the extension deprives Patent Owner of nothing: a Preliminary Response is optional, and Patent Owner may present its substantive defenses if review is instituted.

The Board should deny the motion.

## **II. Patent Owner's Dereliction Is Not Good Cause for Extension**

A late action may be excused under 37 C.F.R. § 42.5(c)(3) if the late party can demonstrate "good cause." That standard requires more than bare attorney argument.

It demands an explanation for the failure to act within the prescribed time. The Board has consistently held that unexplained or inadequately supported delays do not satisfy this burden, even where the delays are far shorter than what Patent Owner asks the Board to excuse here. *E.g., Aylo Freesites Ltd v. DISH Techs. L.L.C.*, IPR2024-00044, Paper 7 at 2 (P.T.A.B. Jan. 25, 2024); *Netflix, Inc. v. Valjakka*, IPR2023-00423, Paper 8 at 2-3 (P.T.A.B. May 15, 2023). Patent Owner’s motion falls well short of this standard.

Petitioner filed the Petition on March 31, 2026, and properly served it on Patent Owner’s listed prosecution counsel on April 1, 2026. Paper 1; Paper 5 (“Mot.”) at 2. The Board issued a Notice of Filing Date Accorded on April 2, 2026. Paper 3 at 1. The Board also emailed Patent Owner’s counsel (via its [patentdocket@troutman.com](mailto:patentdocket@troutman.com) email address) on April 2, 2026, attaching the Notice of Filing Date Accorded. That notice required Patent Owner to file its mandatory notices by April 22, 2026; its discretionary denial brief by June 2, 2026; and its Preliminary Response by July 2, 2026. Paper 3 at 1. Patent Owner met none of those deadlines. Instead, Patent Owner sat idle for over three months—filing no mandatory notices, no Preliminary Response, and no extension request. Even the Board’s July 7, 2026 email to Patent Owner’s counsel—warning that no attorney had entered an appearance for Patent Owner—failed to spur it into timely action. *See* Mot. at 2-3. Patent Owner did not seek leave to file this motion for an extension of time to file

its Preliminary Response until July 23, 2026—three weeks after the deadline had already passed. *See* Mot. at 3-4.

Patent Owner offers no reason for this dereliction. Instead, Patent Owner merely states that—despite its prosecution counsel receiving the service package on April 1, 2026, and being notified by email on April 6 that the package had arrived—its counsel “failed to appreciate that the package constituted service” of the Petition. Mot. at 2. That is not an explanation. Patent Owner alternatively tries to characterize this failure as “a clerical and unintentional law office failure.” Mot. at 4. But there was nothing “clerical” about it. Patent Owner’s counsel acknowledged that it received the properly served Petition, was separately notified of its arrival by email, and then failed to act on it. Mot. at 2-3. That is not a clerical oversight. It is a fundamental failure to discharge the professional obligation to monitor and respond to service of a contested proceeding.

Patent Owner also claims it “acted quickly and diligently” upon realizing its error (Mot. at 4), but the record contradicts that assertion. Nearly two weeks elapsed between the Board’s July 7 follow-up and Patent Owner’s first response on July 20. Mot. at 2-3. And when Patent Owner finally acted, it did not acknowledge its mistake or seek an extension. Instead, Patent Owner’s counsel accused Petitioner’s counsel of failing to properly serve the Petition. Mot. at 3. Only after Petitioner confirmed

the next day that the Petition had been properly served did Patent Owner reverse course and file mandatory notices on July 22, 2026. Mot. at 3-4; Paper 4.

The false defective-service accusation is particularly troubling. Patent Owner argues that its prosecution counsel believed “in good faith” that, on July 20, he “had not received a service copy of the Petition or any supporting exhibits” and that “service had not been effected.” Mot. at 3. But that cannot be reconciled with Patent Owner’s other admissions that the same prosecution counsel received a package containing the Petition and exhibits on April 1 and was expressly notified of that package by internal email on April 6. Mot. at 2. Rather than demonstrating the diligence Patent Owner claims, the episode reveals that prosecution counsel never bothered to investigate its own files before leveling accusations against Petitioner’s counsel and did not do so until after Petitioner responded on July 21. Mot. at 3-4. Thus, the July 20 accusation was not the product of a reasonable, good-faith assessment of the facts, but of counsel’s failure to review readily available records before asserting defective service. That failure further undermines Patent Owner’s claim of diligence and cannot supply good cause for its missed deadline.

Here, Patent Owner has simply provided *no* reasonable explanation of why it missed the deadline. *Cf. Samsung Elecs. Co. v. Netlist, Inc.*, IPR2022-00064, Director’s Memorandum and Order at 4-5 (P.T.A.B. July 26, 2023) (denying an extension request under the “excusable neglect” standard for failure to “reasonably

explain its reason for failing to timely file the notice of appeal, including whether the delay was within [Patent Owner’s] reasonable control”). Patent Owner submits no supporting declaration, testimony, or documentary evidence—only unsworn attorney argument. The motion does not explain why counsel failed to recognize the Petition as such, what internal protocols existed (or failed) for tracking served papers, or what steps counsel took (if any) after receiving the April 6 email notification. Such bare attorney representations cannot excuse a delay of this magnitude—particularly when the representations are contradicted by Patent Owner’s own admissions and conduct.

The Board routinely rejects such arguments that good cause exists for unexcused delay—even where the delays were far shorter and the explanations more detailed than what Patent Owner offers here. For instance, the Board has held that a patent owner had “not shown good cause” even where its delay in filing a preliminary response was “due to unanticipated delays in uploading files associated with . . . six POPRs” completed three minutes past the filing deadline. *Aylo Freesites Ltd v. DISH Techs. L.L.C.*, IPR2024-00044, Paper 7 at 2 (P.T.A.B. Jan. 25, 2024); *Aylo*, IPR2024-00044, Ex. 3001. Similarly, in *Netflix, Inc. v. Valjakka*, IPR2023-00423, Paper 8 at 2-3 (P.T.A.B. May 15, 2023), the patent owner missed its deadline by two days, blaming a paralegal who mistakenly believed the filing was due on a different day. There, the Board was “not persuaded, on the basis of Patent Owner’s

representations, that good cause has been shown,” noting the patent owner offered no basis for the paralegal’s mistake and no explanation for waiting until the due date to file a purportedly ready response. *Id.*

If a three-minute delay caused by delays in using the PTAB’s e-filing system does not constitute “good cause,” then Patent Owner’s unexplained delay of more than three weeks plainly cannot. Its only justification is that prosecution counsel “failed to appreciate” the significance of a PGR petition that counsel admittedly received and, for unexplained reasons, “failed to act on the same.” Such attorney inattention is not good cause; it is precisely the type of avoidable neglect that does not warrant excusing a missed deadline.

### **III. Granting the Requested Extension Does Not Advance the Interests of Justice**

In deciding whether to excuse a late action, the Board may also look to whether “consideration on the merits would be in the interests of justice.” 37 C.F.R. § 42.5(c)(3). An extension here would undermine that interest: it would prejudice Petitioner and the public, while sparing Patent Owner no meaningful hardship.

As an initial matter, contrary to Patent Owner’s argument, an extension *would* affect the “statutory pendency goal” (Mot. at 1-2) because Patent Owner’s delay is anything but “minimal” (Mot. at 4). The Preliminary Response deadline passed on July 2, 2026. Patent Owner did not even seek leave to file this motion until July 23, 2026, and the motion was not filed until August 3, 2026. If an extension were

granted, the total delay in filing Patent Owner’s Preliminary Response would exceed at least seven weeks past the original deadline—a significant period of time when an institution decision is now due by October 2, 2026. *See* 35 U.S.C. § 324(c) (requiring institution decision to be made “within 3 months” after the Preliminary Response is filed *or* the time to file a Preliminary Response expires). Indeed, as a result of Patent Owner’s extensive delay, granting an extension would likely either compress the remaining pre-institution schedule, including Petitioner’s right to seek leave to file a reply to a Preliminary Response, or would substantially delay the institution decision, further prejudicing Petitioner who filed this PGR to obtain a speedy review of the invalidity of the recently issued patent. *See Geotab Inc. v. Fractus, S.A.*, IPR2025-01026, Paper 14 at 2-3 (P.T.A.B. Oct. 17, 2025) (“[P]etitions for post-grant review are favored because they must be filed no later than nine months from the grant of the patent (35 U.S.C. § 321(c)), are close in time to examination, and occur before expectations in the patent rights are strongly settled.”).

Patent Owner’s delay is especially prejudicial given Petitioner’s status as an U.S. manufacturer, with recent investments in expanding manufacturing facilities in Colorado to build semiconductor wafer carriers. *See* Entegris Celebrates Grand Opening of Colorado Springs Manufacturing Center of Excellence (Nov. 5, 2025), <https://investor.entegris.com/news/news-details/2025/Entegris-Celebrates-Grand->

[Opening-of-Colorado-Springs-Manufacturing-Center-of-Excellence/default.aspx](#).

Indeed, the USPTO recently announced additional discretionary considerations for instituting post-grant review proceedings that focus on U.S. manufacturing. *See* John A. Squires, Memorandum on Additional Discretionary Institution Considerations – U.S. Manufacturing and Small Business Use of AIA Proceedings (Mar. 11, 2026). This consideration allows the USPTO to more adequately weigh “the interests of entities that invest in domestic production.” *Id.* at 2. Permitting Patent Owner’s unexplained and unexcused delay to further postpone resolution of this proceeding would undermine that policy of domestic-industry protection by deferring addressing the harm to proper competition caused by the erroneous issuance of the ’711 Patent.

The requested extension would also harm the public and provide inappropriate benefits to Patent Owner. Congress provided that, if a PGR is instituted, no IPR petition concerning the challenged patent may be filed until the PGR terminates. 35 U.S.C. § 311(c)(2). Thus, postponing institution (and thus the PGR’s ultimate termination) would inappropriately extend the statutory immunity period during which the validity of its newly issued patent remains insulated from any subsequent IPR petition—not because of a merits determination or any statutory entitlement, but solely because Patent Owner disregarded the deadlines governing this proceeding.

Patent Owner should not be permitted to convert its own unexplained failure to act into additional procedural protection from other forms of administrative review.

Patent Owner contends that “judicial and party efficiency” are served because an extension would allow it to “apprise the Board of issues supportive of a denial of institution.” Mot. at 4-5. But that argument conflates Patent Owner’s private interest with the interests of justice. The “interests of justice” inquiry under 37 C.F.R. § 42.5(c)(3) asks whether excusing the late action serves justice—not whether Patent Owner would benefit from additional opportunities to brief the Board. If Patent Owner’s argument were accepted, any patent owner that missed a filing deadline could claim an extension serves judicial efficiency simply because more briefing is always theoretically helpful. That is not the standard.

Denial of the extension motion deprives Patent Owner of nothing. A Preliminary Response is always optional and may be waived. *See SAP Am., Inc. v. Arunachalam*, CBM2016-00081, Paper 4 at 3 (P.T.A.B. June 21, 2016) (denying request for extension of time to file a patent owner preliminary response, where deadline had not yet passed because “the filing of such a preliminary response is optional”); 37 C.F.R. § 42.207(a). Indeed, the Board routinely decides whether to institute without a Preliminary Response. *See* 37 C.F.R. § 42.207(b) (“A patent owner may expedite the proceeding by filing an election to waive the patent owner preliminary response.”). If review is instituted, Patent Owner may present its

substantive defenses—including on claim construction and prior art—in its Patent Owner Response under 37 C.F.R. § 42.220.

#### **IV. Conclusion**

For the foregoing reasons, Petitioner respectfully requests that the Board deny Patent Owner’s motion for extension of time to file its Preliminary Response.

Dated: August 10, 2026

/Eliot D. Williams/

Eliot D. Williams

Reg. No. 50,822

T: (202) 639-1334

Katharine Burke

(*pro hac vice* application forthcoming)

T: 202-639-7720

**BAKER BOTTS L.L.P.**

700 K Street, N.W.

Washington, D.C. 20001-5692

Frank Zhu (Reg. No. 71,214)

T: (212) 408-2549

Matthew Thompson (Reg. No. 80,905)

T: (212) 408-2580

**BAKER BOTTS L.L.P.**

30 Rockefeller Plaza

New York, NY 10112-4498

*Counsel for Petitioner*

## CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), this is to certify that on this 10<sup>th</sup> day of August, 2026, I caused to be served a true and correct copy of the foregoing **OPPOSITION TO PATENT OWNER'S MOTION FOR EXTENSION OF TIME TO FILE PRELIMINARY RESPONSE PURSUANT TO** by e-mail on the following counsel of record:

Troutman Pepper Locke LLP  
80 Linden Oaks, Suite 320  
Rochester, NY 14625  
Tel: (585) 270-2133  
Fax: (585) 270-2179  
E-mail: Nicholas.Gallo@troutman.com

Bryan C. Smith (Back-up Counsel)  
Registration No. 59,767  
Troutman Pepper Locke LLP  
80 Linden Oaks, Suite 320  
Rochester, NY 14625  
Tel: (585) 270-2141  
Fax: (585) 270-2179  
E-mail: Bryan.Smith@troutman.com

/Eliot D. Williams/  
Eliot D. Williams  
Reg. No. 50,822