

Paper No. ____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE BURTON CORPORATION,
Petitioner,

v.

SMITH SPORT OPTICS, INC. AND KOROYD SARL,
Patent Owner.

Case No. IPR2022-00354
Patent No. 10,736,373

PETITIONER'S REQUEST FOR REFUND

Pursuant to the Patent and Trademark Office's Final Rule Setting and Adjusting Patent Fees, 78 Fed. Reg. 4211, 4233-34 (Jan. 18, 2013), Petitioner hereby requests a refund of the *Inter Partes* Review Post Institution Fee in the amount of \$22,500.00 to be paid to Petitioner's Deposit Account.

On December 21, 2021 Petitioner filed a Petition for *Inter Partes* Review of claims 1-5, 7, 12-13 and 15-17 of U.S. Patent No. 10,736,373 with the Patent Trial and Appeal Board that was assigned case number IPR2022-00354. In accordance with the fee schedule specified in 37 C.F.R. § 42.15(a), Petitioner submitted payment in the amount of \$19,000.00 with the Board at the time of filing of its Petition to cover fees associated with Petitioner's *Inter Partes* Review request, and a further \$22,500.00 in Post-Institution fees.

On July 5, 2022, the Board entered a Decision Denying Institution (Paper 9). Petitioner timely filed a Request for Rehearing of the Decision Denying Institution (Paper 10) on August 4, 2022. On March 30, 2023, the Board entered a Decision Denying Petitioner's Request on Rehearing of the Decision Denying Institution (Paper 11). Accordingly, Petitioner requests a refund of \$22,500.00 for the post-institution fees paid to the USPTO in connection with the instant proceeding. See 78 Fed. Reg. 4211, 4233-34 ("The Office also chooses to return fees for post institution services should a review not be instituted The entire post-

institution fee would be returned to the petitioner if the Office does not institute a review.”).

Respectfully submitted,
Burton Corporation

Date: April 4, 2023

/Marc S. Johannes/

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CERTIFICATE OF SERVICE UNDER 37 C.F.R. § 42.6 (E)(4)

I certify that on April 4, 2023, I will cause a copy of the foregoing document, including any exhibits filed therewith, to be served via electronic mail, as previously consented to by Patent Owner, upon the following:

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Date: April 4, 2023

/MacAulay Rush/
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