

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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THE NOCO COMPANY, INC.,  
Petitioner,

v.

PILOT, INC.,  
Patent Owner.

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IPR2022-01237  
Patent 11,124,077 B2

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Before JEFFREY W. ABRAHAM, JULIA HEANEY, and  
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

AMUNDSON, *Administrative Patent Judge*.

ORDER TO SHOW CAUSE  
Conduct of the Proceeding  
*37 C.F.R. § 42.5*

The NOCO Company, Inc. (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1–24 in U.S. Patent No. 11,124,077 B2 (Exhibit 1001, “the ’077 patent”) under 35 U.S.C. §§ 311–319. Paper 1. Pilot, Inc. (“Patent Owner”) did not file a preliminary response.

On January 23, 2023, the Board instituted an *inter partes* review of claims 1–24 in the ’077 patent on all challenges included in the Petition. Paper 6, 50. The Board also issued a Scheduling Order. *See* Paper 7.

The Scheduling Order set April 17, 2023, as the date for Patent Owner to file a response to the Petition. Paper 7, 11. Further, the Scheduling Order instructed Patent Owner to arrange a conference call with the parties and the Board if Patent Owner elected not to file a response to the Petition. *Id.* at 9. Patent Owner did not file a response to the Petition or arrange a conference call with the parties and the Board.

The Board’s rules provide that “[a] party may request [adverse] judgment against itself at any time during a proceeding.” 37 C.F.R. § 42.73(b). “Actions construed to be a request for adverse judgment include . . . [a]bandonment of the contest.” *Id.* Patent Owner’s failure to file substantive papers in this proceeding is consistent with abandonment of the contest.

## ORDER

Accordingly, it is

ORDERED that within ten business days from the entry of this Order, Patent Owner must show cause why adverse judgment should not be entered against it; upon failure to respond or absent a showing of good cause, adverse judgment may be entered against Patent Owner as to claims 1–24 in the ’077 patent;

IPR2022-01237  
Patent 11,124,077 B2

FURTHER ORDERED that Petitioner may respond to any filing by Patent Owner within five business days of the date of Patent Owner's filing;  
and

FURTHER ORDERED that any filing by Patent Owner and responsive filing by Petitioner shall not exceed ten pages.

IPR2022-01237  
Patent 11,124,077 B2

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