

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MERCEDES-BENZ GROUP AG,
Petitioner,

v.

THE PHELAN GROUP, LLC,
Patent Owner.

IPR2025-00413
Patent 9,045,101

Before LINDA E. HORNER, MITCHELL G. WEATHERLY, and
KARA L. SZPONDOWSKI, *Administrative Patent Judges*.

SZPONDOWSKI, *Administrative Patent Judge*.

ORDER

Granting Petitioner's Unopposed Motion to Correct the Petition
37 C.F.R. § 42.104(c)

Pursuant to our authorization, Petitioner filed an “Unopposed Motion to Correct the Petition.” Paper 6 (“Mot.”). Petitioner seeks to correct “typographical and clerical errors in the Petition and the declaration by Dr. Mark Ehsani, Ex. 1004.” Mot. 2. Petitioner sets forth nine proposed corrections in the Motion, eight of which are bookmark cross-reference errors, and one typographical error. *Id.* at 2–3; *see also id.* at 5.

Accompanying its Motion, Petitioner filed a proposed Corrected Petition in clean and redline versions as Exhibits A and B, respectively, and a proposed Corrected Ehsani Declaration in clean and redline versions as Exhibits C and D, respectively (also in Paper 6). Petitioner represents that Patent Owner does not oppose the Motion. Mot. 2.

The Board has considered a number of factors when determining whether to allow the correction of a petition under § 42.104(c), including:

- (i) the nature of the error, and whether the party requesting relief provides adequate explanation for how the error occurred, including how the error was discovered;
- (ii) the length of time elapsed between learning of the error and bringing the error to the Board’s attention;
- (iii) prejudice to the other party, if any, by allowing the proposed corrections; and
- (iv) whether the proposed corrections have any impact on the proceeding.

See Nitro Fluids, L.L.C. v. Cameron Int’l Corp., IPR2019-00852, Paper 20 at 5 (PTAB Nov. 12, 2019); *Ivantis, Inc. v. Glaukos Corp.*, IPR2018-01180,

Paper 14 at 9 (PTAB Dec. 6, 2018). In this case, these factors favor granting the Motion.

Petitioner explains that the errors are in the cross-reference bookmarks, and Petitioner became aware of the errors while reviewing the Petition on January 7, 2025, the day after it was filed. Mot. 4. This discovery, Petitioner states, led to the discovery of the typographical errors in both the Petition and Ehsani Declaration. *Id.* These errors, Petitioner argues, are clerical in nature because the mistaken cross-references point to sections that do not exist. *Id.*; *see also id.* at 5–7 (further explaining each cross-reference error). Petitioner also describes a typographical error in which the name of Exhibit 1011 was mistyped in part. *Id.* at 7–8. Petitioner argues that it promptly informed Patent Owner of Petitioner’s intent to seek leave to correct the errors, and then promptly sought permission from the Board to file this Motion. *Id.* at 8. Further, Petitioner argues that Patent Owner will not be prejudiced by the Motion and the proceedings will not be impacted. *Id.* at 9.

We find these explanations and arguments by Petitioner persuasive, particularly in light of the unopposed nature of the Motion. Therefore, we grant the Motion.

ORDER

It is

ORDERED that Petitioner’s Unopposed Motion to Correct Petition (Paper 6) is *granted*;

FURTHER ORDERED Petitioner shall add the term “Corrected” to the beginning of the title of the cover page of the Corrected Petition (Exhibit A), but make no other changes to the Corrected Petition; and

FURTHER ORDERED Petitioner shall add the term “Corrected” to the beginning of the title of the cover page of the Corrected Ehsani Declaration (Exhibit C), but make no other changes to the Corrected Ehsani Declaration; and

FURTHER ORDERED that Petitioner shall file the Corrected Petition (Exhibit A) with the term “Corrected” added as specified above as the next paper number within FIVE business days from the issuance of this Order. The filing shall be labeled as “Corrected Petition” in PTAB E2E.

FURTHER ORDERED that Petitioner shall file the Corrected Ehsani Declaration (Exhibit C) with the term “Corrected” added as specified above as Exhibit 1004 within FIVE business days from the issuance of this Order. The filing shall be labeled as “Corrected Mark Ehsani Declaration” in PTAB E2E.

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