

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner,

v.

PROXENSE, LLC
Patent Owner

U.S. Patent No. 8,646,042 B1
IPR Case No.: 2024-00573

**DECLARATION OF DAVID L. HECHT IN SUPPORT OF PATENT OWNER'S
MOTION TO DEEM THE FILING OF ITS PRELIMINARY RESPONSE AND
EXHIBITS AS TIMELY**

I, David L. Hecht, of Livingston, New Jersey, declare of my own knowledge that:

1. My firm and I take full responsibility for missing the deadline to file a preliminary patent owner response in this matter.

2. Had the IPR petition been served directly on our firm, the deadline would have been docketed and calendared as usual. However, because we were told about the petition second-hand, an attorney on my team manually downloaded the filings and manually entered the dates in a different calendar than our firm normally uses for calendaring IPR-related deadlines.

3. At that time, our IPR calendars had due dates for preliminary responses for IPR petitions filed by Petitioner on two related patents: the 289 patent (PTAB-IPR2024-00405); and the 960 patent (PTAB-IPR2024-00407). Both patents are in the same family as the subject of this petition, the 042 patent. Proxense LLC's responses to both the 405 and the 407 petitions were nearly identical to the preliminary response in this matter. The main differences between the proffered preliminary response in this case and the filed preliminary responses for the 405 and 407 petitions is that one of the claim terms from the 405 and 407 petitions did not need to be addressed with respect to the petition here. There are slightly fewer issues with respect to this petition than the other two related matters. As such the three preliminary responses were calendared to be produced simultaneously but the due date for this case was in a different calendar.

4. Because the deadlines for preliminary responses for two related IPR petitions had been docketed on different systems, when those two other responses were filed, the preliminary response for this matter was also considered by our staff to have been filed at the same time.

5. We noticed the filing discrepancy late at night on June 4, 2024 and contacted Microsoft on June 5, 2024, attaching courtesy copies of Patent Owner Preliminary Response and accompanying exhibits. Petitioner did not object to Patent Owner's request.

Dated: June 7, 2024

/s/David L. Hecht

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that Patent Owner's Motion to Deem The Filing of Its Preliminary Response And Exhibits As Timely was served on June 7, 2024 by e-mailing copies to the following e-mail addresses as provided in Petitioner's Petition:

IPR42342-0134IP1@fr.com; PTABInbound@fr.com; axf-ptab@fr.com; devoto@fr.com; khan@fr.com; driesslein@fr.com

Dated: June 7, 2024

Respectfully submitted,

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