

From: [Director Discretionary Decision](#)
To: [Fussell, Tripp](#); [Wayne Zou](#); [Director Discretionary Decision](#)
Cc: [OnePlus-Pantech-IPR](#); [FW-CLIENT-Pantech-OnePlus-Service](#)
Subject: RE: IPR2025-00637 Discretionary Denial Brief
Date: Friday, June 20, 2025 11:43:48 AM
Attachments: [image001.png](#)
[image003.png](#)

Patent Owner's brief and exhibits will be accepted, and are not subject to expungement. To the extent Petitioner feels it needs additional time to file its opposition in view of the minimal delay, it may send a request for additional time by e-mail, and should include its reasons for requesting additional time in the e-mail.

From: Fussell, Tripp <JFussell@mayerbrown.com>
Sent: Thursday, June 19, 2025 3:11 PM
To: Wayne Zou <wayne.zou@bayes.law>; Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Cc: OnePlus-Pantech-IPR <OnePlus-Pantech-IPR@bayes.law>; FW-CLIENT-Pantech-OnePlus-Service <Pantech-OnePlus-Service@mayerbrown.com>
Subject: RE: IPR2025-00637 Discretionary Denial Brief

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Dear Director,

Pantech respectfully submits the following response to address the issues raised regarding the timeliness of its discretionary denial brief and accompanying exhibits in IPR2025-00637.

1. Timeliness of the Discretionary Denial Brief and Exhibits and Good Cause for the late filed exhibit.

Pantech filed its discretionary denial brief on June 17, 2025, in accordance with the deadline set forth in the Notice of Filing Date Accorded. The brief was submitted before midnight Eastern Time, which is consistent with the PTAB's standard practice for electronic filings. The accompanying exhibits were filed shortly thereafter, at 12:02:52 a.m. on June 18, 2025. The brief and exhibits were served on opposing counsel at 12:08:37 a.m. on June 18, 2025.

Pantech respectfully submits that good cause exists for the brief delay in filing the exhibits, which were submitted only three minutes after the midnight deadline. Importantly, the principal brief itself was filed on time, and the brief delay in submitting the accompanying exhibits was the result of an inadvertent administrative issue, not any attempt to evade the rules or gain an unfair advantage.

Specifically, the delay arose because the paralegal responsible for the filing required a verification code to complete the submission process. Due to a miscommunication, lead counsel mistakenly believed that the paralegal would be using backup counsel's login credentials and therefore did not anticipate the need to provide the verification code. Ultimately, the paralegal did proceed with backup counsel's credentials and obtained the necessary code, but this process resulted in a brief, unavoidable delay.

This minor delay was purely procedural and did not prejudice Petitioner in any way. The exhibits were filed

within minutes of the deadline, and Petitioner has suffered no harm or disadvantage as a result. The PTAB has previously exercised its discretion to accept filings that are only minutes late, particularly where, as here, the delay is minimal and there is no showing of prejudice to the opposing party. *See, e.g., Luraco Health & Beauty, LLC v. Lexor Manufacturing, LLC*, IPR2019-00204, Paper 11.

In light of these circumstances, Pantech respectfully requests that the Board accept the exhibits as timely filed, as the brief delay was both minimal and excusable, and no party has been prejudiced.

2. Service on Opposing Counsel

Service was completed within minutes of the filing of the last exhibit. The slight delay in service was due to the administrative process of compiling and transmitting the complete set of documents. Again, this delay was minimal and did not prejudice Petitioner, as the documents were served within minutes of the filing deadline.

3. Request for Conference and Professional Courtesy

Pantech notes that Petitioner did not confer with Pantech's counsel prior to raising this issue with the Director, contrary to the Board's preference for parties to resolve procedural matters cooperatively where possible. Had Petitioner reached out, Pantech would have explained the circumstances and, if necessary, sought the Board's leave to accept the exhibits nunc pro tunc.

4. Request for Acceptance of the Filing

In view of the above, Pantech respectfully requests that the Director exercise discretion to accept the brief and exhibits as timely filed, or, in the alternative, grant leave for the exhibits to be accepted nunc pro tunc. The minimal delay was inadvertent, non-prejudicial, and does not warrant the severe sanction of expungement or striking the exhibits of the brief. As shown, good cause exists under 37 CFR § 42.59(c)(3) for the brief delay in filing the exhibits; however, should the Director find that good cause is lacking, consideration of Pantech's request on the merits would be in the interest of justice because the delay was minimal, purely procedural, and did not prejudice Petitioner in any way.

Pantech reached out to Petitioner, and Petitioner has indicated, with no explanation, that it opposes this request. Should the Director prefer formal briefing on this issue, Pantech requests authorization to file a motion for leave.

Pantech is available to discuss this matter further if the Director believes it would be helpful.

Respectfully submitted,

Tripp Fussell | **Mayer Brown LLP** | (202) 263-3222 (w) (202) 285-4010 (c)

From: Wayne Zou <wayne.zou@bayes.law>

Sent: Thursday, June 19, 2025 10:39 AM

To: Director_Discretionary_Decision@uspto.gov

Cc: OnePlus-Pantech-IPR <OnePlus-Pantech-IPR@bayes.law>; Fussell, Tripp <JFussell@mayerbrown.com>; FW-CLIENT-Pantech-OnePlus-Service <Pantech-OnePlus-Service@mayerbrown.com>

Subject: IPR2025-00637 Discretionary Denial Brief

You don't often get email from wayne.zou@bayes.law. [Learn why this is important](#)

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Dear Director,

Petitioner respectfully seeks the Director's guidance regarding whether Patent Owner timely filed its discretionary denial brief in IPR2025-00637.

In this proceeding, the Notice of Filing Date Accorded was issued on April 17, 2025 (Paper 5). Accordingly, Patent Owner's discretionary denial brief was due on June 17, 2025. According to the PTAB's P-TACTs system, the Patent Owner submitted its brief late on June 17, and filed its accompanying exhibits on June 18, 2025. See Attachments 1 and 2 (automated Document Filing Notices showing the "Submitted Date" for the discretionary denial brief and exhibits, respectively). Patent Owner served Petitioner's counsel thereafter on June 18, 2025. See Attachment 3.

In view of the above, Petitioner respectfully requests the Director's guidance on the following points:

1. Whether the discretionary denial brief should be deemed untimely, and whether the Patent Owner has therefore waived any request for discretionary denial by failing to complete the full submission—including all exhibits and service—by the June 17, 2025 deadline, as required under the USPTO's *Memorandum on Interim Processes for PTAB Workload Management* and associated FAQs.
2. To the extent the Director deems the brief itself timely filed on June 17, Petitioner further requests guidance on whether the exhibits—filed separately on June 18—should be considered untimely and therefore subject to expungement, and whether any portions of the discretionary denial brief that rely on such exhibits should be stricken.

Petitioner is available for a teleconference should the Director find it helpful.

Zhiwei Zou, Lead Counsel on behalf of Petitioner

Wayne Z. Zou, Ph.D.

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