

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FORD MOTOR COMPANY, JAGUAR LAND ROVER NORTH AMERICA, LLC, VOLVO CARS OF NORTH AMERICA, LLC, TOYOTA MOTOR NORTH AMERICA, INC., AMERICAN HONDA MOTOR CO., INC., NISSAN NORTH AMERICA, INC., and SUBARU OF AMERICA, INC.,
Petitioner,

v.

CRUISE CONTROL TECHNOLOGIES LLC,
Patent Owner.

Case IPR2014-00281
Patent 6,324,463

Before JOSIAH C. COCKS, HYUN J. JUNG, and GEORGE R. HOSKINS,
Administrative Patent Judges.

HOSKINS, *Administrative Patent Judge.*

ORDER
Patent Owner's Motion for Rehearing
37 C.F.R. § 42.71(d)

On July 2, 2014, we issued a Decision to Institute *inter partes* review in this proceeding (Paper 17, hereafter “Decision to Institute”). On July 10, 2014, Patent Owner filed a Motion for Rehearing of the Decision to Institute (Paper 20, hereafter “Motion for Rehearing” or “Mot.”). The Motion for Rehearing contends our institution of *inter partes* review was an abuse of discretion because the Petition and the associated papers failed to comply with 37 C.F.R. § 42.8 and § 42.10. *See* Mot. 1, 5. For the following reasons, we deny the Motion for Rehearing.

The Motion Does Not Comply with 37 C.F.R. § 42.71(d)

Our rules require that any request for rehearing must specifically identify all matters the party believes the Board misapprehended or overlooked, and further identify “the place where each matter was previously addressed in a motion, an opposition, or a reply.” 37 C.F.R. § 42.71(d) (2013). The Motion for Rehearing fails to identify where the issues concerning 37 C.F.R. § 42.8 and § 42.10 were previously addressed. These matters could have been raised in Patent Owner’s Preliminary Response (Paper 13), but were not. Patent Owner attempted to raise these matters in its Motion for Joinder (Paper 15). However, we denied that portion of the Motion for Joinder as an unauthorized motion. *See* Decision re Motion for Joinder (Paper 19), 2. The reference to “a motion” in Rule 42.71(d) applies to authorized motions, not unauthorized motions. Thus, the Motion for Rehearing is improper under 37 C.F.R. § 42.71(d) (2013).

The Petition Complies with Rules 42.8 and 42.10

Nonetheless, we will also consider the merits of the Motion for Rehearing. The Motion requests reconsideration of our Decision to Institute because the Petition is defective for failing to identify counsel properly, and that alleged defect was never corrected. *See* Mot. 1, 5. In particular, our rules require that if a party is represented by counsel, then (1) that counsel must be identified, and (2) the party must designate a lead counsel and a back-up counsel who can conduct business on behalf of the lead counsel. *See* 37 C.F.R. §§ 42.8(b)(3), 42.10(a) (2013). Our rules further require “[a] power of attorney must be filed with the designation of counsel.” *Id.* § 42.10(b).

We are not persuaded that those rules were violated. The Petition identifies Matthew Moore as lead counsel for Petitioner in this proceeding, and five other practitioners (Michael Eisenberg¹, Matthew Satchwell, John Caracappa, Wab Kadaba, and William Mandir) as back-up counsel. *See* Pet. 2–3. We therefore conclude the Petition complies with Rules 42.8(b)(3) and 42.10(a).

Patent Owner points out, correctly, that each one of the various Powers of Attorney for the seven companies bringing the Petition (Papers 2 and 3–9) is granted to only one or two of the six practitioners listed as counsel in the Petition. In others words, none of the Powers of Attorney filed in this proceeding is granted to all six practitioners. That fact, however, does not nullify the naming of the six practitioners as lead and back-up counsel in the Petition, having all the rights and responsibilities

¹ Mr. Eisenberg has since been replaced by Robert Steinberg. *See* Paper 21.

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which apply to such roles. We disagree with Patent Owner's assertion that a company's failure to name a specific practitioner in a Power of Attorney as filed in the present proceeding means that practitioner lacks authority to represent the company in this proceeding. *See* Mot. 4–5. Instead, we accept as true the representation that the naming of lead and back-up counsel in the Petition implies: all named counsel are duly authorized to represent the Petitioner (i.e., all seven companies bringing the Petition) in this proceeding as circumstances require.

Conclusion

Accordingly, it is:

ORDERED that Patent Owner's Motion for Rehearing is DENIED.

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FOR PETITIONER:

Matthew J. Moore
LATHAM & WATKINS LLP
matthew.moore@lw.com

Robert Steinberg
LATHAM & WATKINS LLP
bob.steinberg@lw.com

Matthew D. Satchwell
DLA PIPER LLP (US)
matthew.satchwell@dlapiper.com

John M. Caracappa
STEPTOE & JOHNSON LLP
jcaracap@steptoe.com

Wab Kadaba
KILPATRICK TOWNSEND & STOCKTON LLP
wkadaba@kilpatricktownsend.com

William H. Mandir
SUGHRUE MION PLLC
wmandir@sughrue.com

FOR PATENT OWNER:

John R. Kasha
KASHA LAW LLC
john.kasha@kashalaw.com

Kelly L. Kasha
KASHA LAW LLC
kelly.kasha@kashalaw.com