

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

E. I. DU PONT DE NEMOURS AND COMPANY and
ARCHER-DANIELS-MIDLAND COMPANY,
Petitioners,

v.

FURANIX TECHNOLOGIES B.V.,
Patent Owner

Case IPR2015-01838
Patent 8,865,921

REQUEST FOR REHEARING PURSUANT TO 37 C.F.R. § 42.71(d)

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I. INTRODUCTION

Petitioners E. I. du Pont de Nemours and Company and Archer-Daniels-Midland Company (“Petitioners”) respectfully request reconsideration of the portion of the Board’s March 9, 2016 Decision to Institute *Inter Partes* Review (Paper 10) (“Decision”) denying institution on Ground 2. *See* Paper 10 at 16-17.¹

In its Decision, the Board stated that “other than a single cursory citation to [Example 15] in the Petition (Pet. 42), Petitioners fail to provide any further explanation as to the relevance of this teaching to their obviousness contention.” *Id.* at 10 at 17.

Petitioners respectfully submit that the Board abused its discretion in denying institution on Ground 2 because it misapprehended and/or overlooked the totality of Petitioner’s arguments with respect to the teachings of U.S. Patent No. 8,558,018 (the ’018 patent) and how those teachings render claims 6 and 10 obvious.²

¹ Petitioners request reconsideration for Ground 2 only, and do not request reconsideration of Grounds 1 and 3 on which *Inter Partes* Review has been instituted.

² Claims 6 and 10 depend from claims 1 and 7, respectively, which are subject to *Inter Partes* Review under Grounds 1 and 3.

For that reason, Petitioners respectfully request reconsideration of denying institution of *Inter Partes* Review on Ground 2.³

II. APPLICABLE LEGAL STANDARDS

A request for rehearing must “specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed.” 37 C.F.R. § 42.71(d). The standard for reviewing a request for rehearing is “abuse of discretion.” 37 C.F.R. § 42.71(c). An abuse of discretion maybe determined if “a factual finding is not supported by substantial evidence, or if the decision represents an unreasonable judgment in weighing relevant factors.” *PNY Techs., Inc. v. Phison Elecs. Corp.*, IPR2013-00472, Paper 16 at 2 (P.T.A.B. 2014) (citing *Star Fruits S.N.C. v. United States*, 393 F.3d 1277, 1281 (Fed. Cir. 2005)).

Inter partes review shall be instituted for a ground of unpatentability where the Board decides that the petition supporting the ground would demonstrate that

³ This request is authorized under 37 C.F.R. § 42.71(c), and under such authorization, prior authorization from the Board to file this Request is not required. *See* 37 C.F.R. § 42.71(d). This request is timely as it is being filed within 14 days of the entry of a decision to institute a trial as to at least one ground of unpatentability asserted in the Petition. *See* 37 C.F.R. § 42.71(d)(1).

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