Paper No. 15
Filed: January 3, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DR. REDDY'S LABORATORIES, LTD. AND DR. REDDY'S LABORATORIES, INC.,
Petitioners,

v.

MONOSOL RX, LLC,
Patent Owner.

Patent No. 8,603,514
Issue Date: December 10, 2013
Title: UNIFORM FILMS FOR RAPID DISSOLVE DOSAGE FORM INCORPORATING TASTE-MASKING COMPOSITIONS
Inter Partes Review No. IPR2016-01111

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

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I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.71(c) and (d), Petitioners, Dr. Reddy's Laboratories, Ltd. and Dr. Reddy's Laboratories, Inc. (collectively, "Petitioners"), hereby submit this Request for Rehearing on the Decision Denying Institution of *Inter Partes* Review in the above-captioned matter. Paper No. 14, "Inst. Dec." In the Institution Decision, all of Petitioner's grounds for obviousness of claims 1-3, 9, 15, 62-65, 69-73 and 75 of U.S. Patent No. 8,603,514 ("the '514 patent") were denied.

II. LEGAL STANDARDS

A. Request for Rehearing

A request for rehearing is appropriate when the requesting party believes "the Board misapprehended or overlooked" a matter that was previously addressed in the record. *See* 37 C.F.R. § 42.71(d). The request "must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in a motion, an opposition, or a reply." *Id*. In reviewing such a request, the "panel will review the decision for an abuse of discretion." 37 C.F.R. § 42.71(c). Moreover, for evidence to be considered by the Board, "all evidence must be filed in the form of an exhibit." 37 C.F.R. § 42.63(a).

B. Collateral Estoppel

The PTO affords preclusive effect to its own findings in subsequent PTO proceedings under certain circumstances. For example, "administrative estoppel" may be used to give preclusive effect to an examiner's findings in subsequent reexamination proceedings if the patent owner did not traverse those findings during prosecution.[1]

III. BACKGROUND

On December 5, 2016, the Board ("Instant Board") denied institution of Petitioner's Petition on the grounds that the "Petition has not demonstrated a reasonable likelihood of establishing that it would prevail in showing unpatentability of independent claims 1 and 62 or their respective dependent claims, 2-3, 9, 15, 63-65, 69-73 and 75 over Bess and Chen" and that the "Petition has not demonstrated a reasonable likelihood of establishing that it would prevail in showing unpatentability of claims 1-3, 9, 15, 62-65, 69-73 and 75 over the combination of Chen and Cremer." Inst. Dec. 14 at 17, 19.

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[1] *See Ex parte Smith*, No. 2009-014595 (B.P.A.I. Aug. 17, 2010); *see also Innolux Corp. v. Semiconductor Energy Lab. Co.*, IPR2013-00064, Paper No. 11 (PTAB April 30, 2013) (rejecting petitioner's administrative estoppel argument because claims challenged in the petition were not "patentably indistinct" from claims cancelled in prior reexamination proceeding).

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