UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GENERAL PLASTIC INDUSTRIAL CO., LTD.

Petitioner

v.

CANON KABUSHIKI KAISHA

Patent Owner

U.S. Patent No. 8,909,094
Issue Date: December 9, 2014
Title: SEALING MEMBER, TONER ACCOMMODATING CONTAINER AND IMAGING FORMING APPARATUS

PETITIONER'S REQUEST FOR REHEARING PURSUANT TO 37 C.F.R. §42.71(d), AND FOR AN EXPANDED PANEL

Case No. IPR2016-01360

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Regulations

Other Authorities

I. INTRODUCTION

Pursuant to 37 C.F.R. §42.71(d), Petitioner General Plastic Industrial Co. ("Petitioner") requests rehearing of the Decision (Paper 12) denying its Third Petition (IPR2016-01360, filed July 8, 2016) under 35 U.S.C. §314(a) and 37 C.F.R. §42.108(a), without assessing the substantive merits of the sole ground of unpatentability presented in the Third Petition. Petitioner filed a first petition (IPR2015-01954, filed Sept. 25, 2015) asserting two grounds based on Matsuoka and the Third Petition asserting one ground based on a combination of five references including as secondary references Koide (which was not actually known to Petitioner until after the denial of the first petition) and Matsuoka and a second ground that excludes Matsuoka from the combination. Neither the Board nor Patent Owner Canon contends that the Third Petition relies upon "the same or substantially the same prior art or arguments" as previously presented in the first petition, within the meaning of 35 U.S.C. §325(d).

The rationale used by the Board under §314(a) to deny the subject Third Petition would effectively bar the filing of a second petition after the denial of a first petition in every other *inter partes* proceeding going forward, which directly conflicts with §325(d) and the Board decisions instituting *inter partes* reviews on just such second petitions. The statutory framework and rules implementing *inter partes* reviews contemplate that a petitioner may file more than one petition during

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