

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FORD MOTOR COMPANY
Petitioner,

v.

VERSATA DEVELOPMENT GROUP, INC.
Patent Owner.

U.S. Patent No. 7,882,057 to Little et al.

Case No.: IPR2017-00151

**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(d), Ford Motor Company (“Ford”) respectfully requests a rehearing of the United States Patent Trial and Appeal Board (“Board”) decisions denying Ford’s petition for *inter partes* review (“IPR”) of U.S. Patent No. 7,882,057 (the ‘057 Patent). (IPR2017-00151, Paper 7.)

A. Issues

(1) Whether the Board misapplied the binding Federal Circuit and PTAB precedent by refusing to hold that the dismissal without prejudice of the *Versata* action has no legal effect under 35 U.S.C. § 315(b) and must be treated as if the action had never been filed.

(2) Whether the Board misapplied the law in holding that there is a “continuous chain of assertion” exception to the precedential rule that a complaint dismissed without prejudice has no legal effect under 35 U.S.C. § 315(b).

B. Summary of Basis for Reconsideration

Petitioner submits that the Board misapplied binding precedent to the undisputed facts. The Federal Circuit has held that the *effect* of a dismissal without prejudice is that it leaves the parties as if the underlying complaint had never been filed. *Graves v. Principi*, 294 F.3d 1350, 1356 (Fed. Cir. 2002); *Bonneville Assoc., Ltd. P’ship v. Baram*, 165 F.3d 1360, 1364 (Fed. Cir. 1999). The PTAB has recognized, quoted, and adopted this law as precedent, reiterating that the *effect* of

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