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Paper 31  
Entered: May 19, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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EMERSON ELECTRIC CO.,  
Petitioner,

v.

SIPCO, LLC,  
Patent Owner.

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Case IPR2016-00984  
Patent 8,754,780 B2

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Before LYNNE E. PETTIGREW, STACEY G. WHITE, and  
CHRISTA P. ZADO, *Administrative Patent Judges*.

ZADO, *Administrative Patent Judge*.

DECISION  
Denying Patent Owner's Request for Rehearing  
*37 C.F.R. § 42.71*

Pursuant to 37 C.F.R. § 42.71(d), SIPCO, LLC (“Patent Owner”) filed a Request for Rehearing (Paper 28, “Req. Reh’g”) of our April 20, 2017 Order (Paper 27, “Order”) denying Patent Owner’s request to file a third Request for a Certificate of Correction and Petition to Accept an Unintentionally Delayed Priority Claim and for Expedited Consideration (collectively, “Third Request”). Emerson Electric Co. (“Petitioner”) seeks our authorization to file a response to Patent Owner’s Request for Rehearing. For reasons set forth below, we deny Patent Owner’s Request for Rehearing.

The Code of Federal Regulations provides that

A party dissatisfied with a decision may file a single request for rehearing without prior authorization from the Board. The burden of showing a decision should be modified lies with the party challenging the decision. 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.

37 C.F.R. § 42.71(d).

In the Request for Rehearing, Patent Owner argues we overlooked Patent Owner’s explanation, in the April 7, 2017 Response (Paper 26) to our March 30, 2017 Order to Show Cause (Paper 24), of the circumstances that would justify mistakes Patent Owner made in its second Request for a Certificate of Correction and Petition to Accept an Unintentionally Delayed Priority Claim and for Expedited Consideration (collectively, “Second Request”). Req. Reh’g 8–11. Patent Owner also argues that we incorrectly found Patent Owner repeated the same mistake in the Second Request that it made in a first Request for a Certificate of Correction and Petition to Accept

an Unintentionally Delayed Priority Claim and for Expedited Consideration (collectively, “First Request”). *Id.* at 11.

We did not overlook Patent Owner’s explanation. Rather, we did not find it compelling. Mere disagreement with the decision in our Order is not sufficient grounds for rehearing. Also, contrary to Patent Owner’s argument, we did not find Patent Owner repeated the same mistake in the Second Request that it had made in the First Request.

Patent Owner has made several errors and mistakes throughout Patent Owner’s attempts to make a claim of priority with respect to U.S. Patent No. 8,754,780 B2 (the “’780 patent”), including during prosecution of the application leading to the ’780 patent (*see, e.g.*, Paper 13, 1–5; Ex. 1022–1034; Paper 15; Ex. 2011–2021), during prosecution of the application to which Patent Owner seeks to claim priority (i.e., Application No. 12/477,329) (*see, e.g.*, Ex. 3002, 2), and in the First Request (*see, e.g.*, Ex. 3001) and Second Request (*see, e.g.*, Ex. 3002). In our Order, our finding regarding Patent Owner’s “repeated mistakes” was in reference to Patent Owner’s demonstrated pattern of making errors it should have recognized and could have avoided with the exercise of minimal diligence. Paper 27, 3. In the Response to our Order to Show Cause, Patent Owner did not provide sufficient justification for the failure to avoid making error after error.

Under the present circumstances, we are not persuaded to modify our decision to exercise our jurisdiction pursuant to 37 C.F.R § 42.3 and deny Patent Owner’s request to file a Third Request. Paper 27, 3. We, therefore, deny Patent Owner’s Request for Rehearing. Because we deny Patent Owner’s Request for Rehearing, Petitioner’s request for authorization to file

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a response to Patent Owner's Request for Rehearing is denied as moot.

Accordingly, it is:

ORDERED that Patent Owner's Request for Rehearing is denied.

PETITIONER:

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PATENT OWNER:

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