

Filed on behalf of: Arkema Inc. and Arkema France

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ARKEMA INC. AND ARKEMA FRANCE,  
Petitioner,

v.

HONEYWELL INTERNATIONAL INC.,  
Patent Owner.

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PGR2016-00011  
Patent No. 9,157,017

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**PETITIONER'S SUR-REPLY IN OPPOSITION TO  
PATENT OWNER'S MOTION FOR LEAVE TO REQUEST A  
CERTIFICATE OF CORRECTION**

**TABLE OF ABBREVIATIONS**

<b>Abbreviation</b>	<b>Definition</b>
'017 patent	U.S. Patent No. 9,157,017 (Ex. 1001)
'605 application	U.S. Patent Application No. 11/475,605 (Ex. 2170), which issued as U.S. Patent No. 9,005,467
AAC	automobile air conditioning
<b><i>Bold Italics</i></b>	emphasis added
COC	certificate of correction
HWBr	<i>Honeywell Int'l Inc. v. Arkema Inc.</i> , Appeal Nos. 18-1151, -1153, D.I. 25 (Fed. Cir. May 9, 2018)
HWRBr	<i>Honeywell Int'l Inc. v. Arkema Inc.</i> , Appeal Nos. 18-1151, -1153, D.I. 37 (Fed. Cir. Oct. 10, 2018)
Minor	U.S. Pat. App. Pub. No. 2008/0230738
Motion	Paper 61, Patent Owner's Motion for Leave to Request a Certificate of Correction
Opp.	Paper 71, Petitioner's Opposition to Patent Owner's Motion for Leave to Request a Certificate of Correction
Reply	Paper 74, Patent Owner's Reply in Support of its Motion for Leave to Request a Certificate of Correction
WO '625	WO 2007/02625 (PGR2016-00012, Ex. 1011)

**TABLE OF AUTHORITIES**

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<i>ASM IP Holding B.V. v. Kokusai Elec. Corp.</i> , IPR2019-00378, Paper 17 (PTAB July 5, 2019) (“ <i>ASM</i> ”).....	2
<i>Emerson Elec. Co. v. SIPCO, LLC</i> , IPR2016-00984, Paper 52 (PTAB Jan. 24, 2020).....	5
<i>Emerson Elec. Co. v. SIPCO, LLC</i> , IPR2017-00001, Paper 37, 2 (PTAB Nov. 22, 2017) (“ <i>Emerson</i> ”) .....	1
<i>Honeywell Int’l Inc. v. Arkema Inc.</i> , 939 F.3d 1345 (Fed. Cir. 2019) (“ <i>Honeywell</i> ”).....	1, 2, 4, 5
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<i>Inline Packaging, LLC v. Graphic Packaging Int’l, Inc.</i> , IPR2015-01609, Paper 19 (PTAB Mar. 31, 2016) .....	5
<i>Pfizer, Inc. v. Teva Pharm. USA, Inc.</i> , 518 F.3d 1353 (Fed. Cir. 2008).....	4
<i>Prime Focus Creative Servs. Can. Inc. v. Legend3D, Inc.</i> , IPR2016-01491, Paper 21 (PTAB Mar. 1, 2017) (“ <i>Prime Focus</i> ”).....	2
<i>SPTS Tech. Ltd. v. Plasma-Therm LLC</i> , IPR2018-00618, Paper 7, 2 (PTAB May 1, 2018) (“ <i>SPTS Tech.</i> ”).....	1
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Honeywell seeks a COC to establish an entirely new priority date via applications never identified in the '017 patent record. But, as admitted by Honeywell's prosecution counsel, "*it was never Honeywell's intent* during the lifetime of the '017 patent prosecution to make a claim to [an] additional priority chain" and "*[t]here was no error that was made during the prosecution itself.*" Ex. 1197, 25:3-26:16, 70:11-18, 72:4-9. No precedent, much less Honeywell's alleged "40+ years of precedent," supports this misuse of a COC. Indeed, it is precluded by statute, regulation, and Office practice. Honeywell's Motion thus fails to establish a "sufficient basis" for issuance of a COC. *See Honeywell* at 1349.

**A. Honeywell has not shown "mistake" or "unintentional delay"**

Honeywell's citations to "at least 10 cases" allowing COCs for priority claims (Reply, 1) are irrelevant given that Honeywell's deliberate actions preclude issuance of a COC. *See Opp.*, 3-5. That COCs were allowed for *other* patents under *other* circumstances does not support Honeywell's burden to establish a sufficient basis that its litigation strategy here is a § 255 "mistake" or "unintentional delay."

Unlike *USAA*, Honeywell's proposed change is not based on a clerical error. Ex. 2041, 9:24-10:5, 22:20-24. Honeywell's admission that "[t]here was no error that was made during the prosecution itself" (Ex. 1197, 72:4-9) distinguishes *Emerson* (change of "and is a continuation" to "which is a continuation" said to be consistent with file history) and *SPTS Tech.* (priority claimed in ADS but not

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