

# EXHIBIT 10

**PETITION FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 6,803,545**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In the *Inter Partes* Review of U.S. Patent No. 6,803,545

Trial No.: Not Yet Assigned

Issued: October 12, 2004

Filed: June 5, 2002

Inventors: Clinton E. Blake, *et al.*

Assignee: Philip Morris USA, Inc.

Title: ELECTRICALLY HEATED SMOKING SYSTEM AND  
METHODS FOR SUPPLYING ELECTRICAL POWER FROM A  
LITHIUM ION POWER SOURCE

**MAIL STOP PATENT BOARD**

Patent Trial and Appeal Board

United States Patent & Trademark Office

P.O. Box 1450

Alexandria, Virginia 22313-1450

**PETITION FOR *INTER PARTES* REVIEW**  
**UNDER 37 C.F.R. § 42.100**

On behalf of R.J. Reynolds Vapor Company (“Petitioner”) and in accordance with 35 U.S.C. § 311 and 37 C.F.R. § 42.100, *inter partes* review (“IPR”) is respectfully requested for claims 1–4 and 7 (“the Challenged Claims”) of U.S. Patent No. 6,803,545 (“the ’545 patent”) (Ex.1001).

The undersigned representative of Petitioner authorizes the Office to charge the \$41,500 Petition and Post-Institution Fees, and any additional fees, to Deposit Account 503013, ref: 629000-851003.

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vice versa. *Id.*

**IV. Identification Of Challenge Pursuant To 37 C.F.R. § 42.104(b)**

**A. 37 C.F.R. § 42.104(b)(1): Claims For Which IPR Is Requested**

IPR is requested for claims 1–4 and 7 of the '545 patent.

**B. 37 C.F.R. § 42.104(b)(2): The Prior Art And Specific Grounds On Which The Challenge To The Claims Is Based**

IPR is requested in view of the following references:

- U.S. Patent No. 6,641,953 to Takeuchi *et al.* (“Takeuchi”) (Ex.1002). Takeuchi was filed on January 9, 2001, claims priority to Provisional Application No. 60/175,709, filed on January 12, 2000, issued on November 4, 2003, and is prior art to the '545 patent under at least 35 U.S.C. § 102(e).

- U.S. Patent No. 6,040,560 to Fleischhauer *et al.* (“Fleischhauer”) (Ex.1003). Fleischhauer was filed on October 10, 1997, issued on March 21, 2000, and is prior art to the '545 patent under at least 35 U.S.C. § 102(b).

- U.S. Patent No. 5,144,962 to Counts *et al.* (“Counts '962”) (Ex.1004). Counts '962 was filed on December 1, 1989, issued on September 8, 1992, and is prior art to the '545 patent under at least 35 U.S.C. § 102(b).

- Panasonic Lithium Ion Batteries Technical Handbook '00/01 (“Panasonic Handbook”) (Ex.1005) was published by Matsushita Battery Industrial Co., Ltd. Panasonic Handbook bears a copyright date of 2000 and is labeled “January 2000.” Panasonic Handbook is prior art under 35 U.S.C. § 102(b) as a printed publication that

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was published on and publicly available over the Internet. *See* Ex.1006 (explaining Panasonic Handbook’s status as a printed publication and public availability).

The specific statutory grounds on which the challenge to the claims is based and prior art relied upon for each ground are as follows:

**Ground 1a:** Claims 1–3 are unpatentable under 35 U.S.C. § 103 over Fleischhauer in view of Takeuchi; and

**Ground 1b:** Claims 4 and 7 are unpatentable under 35 U.S.C. § 103 over Fleischhauer in view of Takeuchi, and in further view of Panasonic Handbook.

**Ground 2a:** Claims 1–3 are unpatentable under 35 U.S.C. § 103 over Fleischhauer in view of Counts ’962; and

**Ground 2b:** Claims 4 and 7 are unpatentable under 35 U.S.C. § 103 over Fleischhauer in view of Counts ’962, and in further view of Panasonic Handbook.

**C. 37 C.F.R. § 42.104(b)(3): Claim Construction**

The Board gives claims their ordinary and customary meaning, or “the meaning that the term would have to a [POSA] at the time of the invention.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (en banc). At this time, Petitioner proposes no terms for construction.

In the event that Patent Owner asserts that construction is required of the phrase “to prevent damage to the lithium ion power source” of claim 1, Petitioner asserts that it has its plain and ordinary meaning. That meaning is that the claimed controller will

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	wdevitt@jonesday.com
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Pursuant to 37 C.F.R. § 42.10(b), a Power of Attorney accompanies this petition. Please address all correspondence to lead and back-up counsel at the addresses above. Petitioner also consents to electronic service by email at the email addresses listed above.

**VIII. Conclusion**

Petitioner therefore requests that the Board order an IPR trial and then proceed to cancel claims 1–4 and 7.

Dated: March 26, 2021

Respectfully submitted,

/s/ Matthew W. Johnson

Matthew W. Johnson  
Reg. No. 59,108  
JONES DAY  
500 Grant Street, Suite 4500  
Pittsburgh, PA 15219  
Telephone: (412) 394-9524  
Facsimile: (412) 394-7959  
mwjohnson@jonesday.com