

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.

Case IPR2015-01966
Patent 9,046,820 B1

Before MICHAEL R. ZECHER, JENNIFER S. BISK, and
SHEILA F. McSHANE, *Administrative Patent Judges*.

McSHANE, *Administrative Patent Judge*.

DECISION
Denying General Plastic's Request for Rehearing
37 C.F.R. § 42.71(d)

I. INTRODUCTION

General Plastic Industrial Co., Ltd., (hereafter “General Plastic” or “Petitioner”) filed a Request for Rehearing (Paper 10, “Req. Reh’g”) of the Decision entered in this case (Paper 9, “Dec.”), in which we denied *inter partes* review of claims 1, 7–9, and 16 of U.S. Patent No. 9,046,820 B1 (“the ’820 patent,” Ex. 1001). In its Request for Rehearing, General Plastic contends that, in the context of its anticipation challenge of claims 1, 8, 9, and 16 of the ’820 patent, (1) we misapprehended or overlooked the composite form of the toner cartridge; and (2) we misapprehended or overlooked the discussion regarding the withdrawal of the toner cartridge from a copier. Req. Reh’g 1–12. General Plastic also contends that, in the context of its sole obviousness challenge of claims 1, 7–9, and 16 of the ’820 patent, we misapprehended or overlooked the supporting testimony of its Declarant, Brian Springett, Ph.D. *Id.* at 12–15. For the reasons set forth below, General Plastic’s Request for Rehearing is *denied*.

II. DISCUSSION

A party requesting rehearing has the burden to show a decision should be modified by specifically identifying all matters the party believes the Board misapprehended or overlooked, and the place where each matter was addressed previously in a motion, opposition, or a reply. 37 C.F.R. § 42.71(d). When rehearing a decision on institution, we review the decision for an abuse of discretion. 37 C.F.R. § 42.71(c). An abuse of discretion may be indicated if a decision is based on an erroneous interpretation of law, if a factual finding is not supported by substantial evidence, or if the decision represents an unreasonable judgment in weighing relevant factors. *Star Fruits S.N.C. v. U.S.*, 393 F.3d 1277, 1281 (Fed. Cir. 2005); *Arnold*

P'ship v. Dudas, 362 F.3d 1338, 1340 (Fed. Cir. 2004); *In re Gartside*, 203 F.3d 1305, 1315–16 (Fed. Cir. 2000). We address the General Plastic's contentions outlined above, first with respect to the anticipation challenge and, then with respect to the obviousness challenge.

Anticipation Challenge

First, contrary to General Plastic's assertions, we did not “inferentially construe[] [the claims at issue] to require that the recited sealing member must be of a one-piece or inseparable construction” or fail to apprehend that General Plastic was asserting that its anticipation challenge was based on a “part-time” analysis. See Req. Reh'g 2–3, 4–5. As explained in the Decision, we considered General Plastic's assertion under the scenario where power transmitting member and fixed cover of the container are alleged “integrally combined”—that is, the “part-time” circumstances depicted in Figure 6 of Matsuoka—and found that the evidence was insufficient to support that view under the circumstances. See Dec. 15–18. Failure of General Plastic's challenge does not equate to a requirement that the sealing member has to be of one-piece or inseparable construction, but instead reflects that, based on the evidence and argument presented and developed in the Petition, we did not find a reasonable likelihood that General Plastic would prevail on the anticipation challenge. As the Decision discusses, the Petition contains inconsistent mapping of the prior art onto the claim elements, and, contrary to General Plastic's view of elements being “integrally combined,” Matsuoka instead discloses that the rotary power transmitting member is a part of copier, and not the toner container, and is

detachable from the toner container.¹ *Id.* at 17–18. This evidence is incongruent with a determination that General Plastic would have had a reasonable likelihood of prevailing on its anticipation challenge.

Second, as to the alternate basis for denying institution under the anticipation challenge, we did not err in determining that Matsuoka failed to disclose a structure capable of meeting the limitation that “the sealing member and container body move away from each other when becoming unsealed.” *See* Req. Reh’g 8–9. We did not overlook or misapprehend General Plastic’s argument in the Petition that, during some part of the sequence of the unsealing, a portion of the sealing member was alleged to move away from the axial end of the container. *Id.* at 9–12; *see also* Pet. 35–36. Claim 1 states, in relevant part, “*the sealing member being movable relative to the container body in an axial direction of the container body*” with “*the opening becoming unsealed by relative movement of the sealing member and the container body away from one another.*” Ex. 1001 at 24:14–16, 24:21–22. During unsealing, Matsuoka discloses that the rotary power transmitting member portion of the sealing member moves towards, and not away from, the container body as its movement proceeds and there

¹ General Plastic argues that the view of evidence has to be solely based on how the parts of Matsuoka are arranged. Req. Reh’g 6–7. Anticipation is a question of fact and in its evaluation “the meaning of a prior art reference requires analysis of the understanding of an artisan of ordinary skill.” *Finisar Corp. v. DirecTV Group, Inc.*, 523 F.3d 1323, 1334, 1336 (Fed. Cir. 2008) (*referring to Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir.1991)); *see also In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994) (explaining that a prior art reference must be “considered together with the knowledge of one of ordinary skill in the pertinent art”).

is no change in that direction throughout the course of unsealing, *See* Pet. 29; Ex. 1001, Figs. 10(b), 11; Dec. 16–17. The Petition’s challenge was based upon movement relative to the “container’s axial end” (Pet. 36), but we declined to adopt General Plastic’s proposed construction that would have added the element “move away from an axial end” to the claim term. *See* Dec. 9, 11.

Further to that issue, General Plastic also contends that we somehow are required to define expressly the plain and ordinary meaning of claim terms, and then offers its own definition of only one term, “away.” Req. Reh’g 8. General Plastic refers to *Eon Corp. IP Holdings LLC v. Silver Spring Networks, Inc.*, 815 F.3d 1314 (Fed. Cir. 2016), for the proposition that we bear the responsibility to define expressly claims terms that may be considered outcome determinative. *Id.* We do not agree with General Plastic that, under these particular circumstances, we were required to define the ordinary meaning for all claim terms, such as the claim term “move away.” In our Decision, we addressed the disputes associated with the claim terms to the extent necessary to resolve the issues identified in the Petition and render a determination on whether to institute an *inter partes* review. *See* Dec. 8–11. We note that the Federal Circuit explained in *Eon* that a “court need not attempt the impossible task of resolving all questions of meaning with absolute, univocal finality. Such an endeavor could proceed ad infinitum, as every word—whether a claim term itself, or the words a court uses to construe a claim term—is susceptible to further definition, elucidation, and explanation.” *Eon*, 815 F.3d at 1318 (*also referring to Vivid Techs., Inc. v. Am. Science & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed.

Cir.1999)) (explaining that “only those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy.”).

We, therefore, are not persuaded that we misapprehended or overlooked any matter in making our determination that General Plastic did not establish a reasonable likelihood of prevailing on its anticipation challenge as to claims 1, 8, 9, and 16 of the '820 patent.

Obviousness Challenge

As to the obviousness issues raised in the Request for Rehearing, we did not overlook or misapprehend that the engagement claw portion 443 of the rotary power transmitting member can be decoupled from rotary shaft portion 442 and gear 47. Req. Reh'g. 12–14. We also did not overlook or misapprehend Dr. Spingett's statements concerning the removal of the engagement claw portion 443. Req. Reh'g. 14 (citing Ex. 1007 ¶ 72). The issue as to whether one of ordinary skill in the art would have envisioned the possibility of a disengagement problem between the rotary power transmitting member and fixed cover in the first place underlies the motivation, according to Dr. Springer, for testing the removal of the engagement claw portion. See Ex. 1007 ¶¶ 71, 72. Thus, we determined that the evidence on the possibility of disengagement problem between the rotary power transmitting member and fixed cover was insufficient to support why one of ordinary skill in the art would have modified Matsuoka in the manner alleged in the Petition. See Dec. 20. Even after considering General Plastics new twist on the same arguments in this Request of Rehearing, our view remains the same.

We, therefore, are not persuaded that we misapprehended or overlooked any matter in making our determination that General Plastic did

not establish a reasonable likelihood of prevailing on its obviousness challenge as to claims 1, 7–9, and 16 of the '820 patent.

III. CONCLUSION

For the foregoing reasons, General Plastic has not shown that we abused our discretion when determining not to institute an *inter partes* review as to claims 1, 7–9, and 16 of the '820 patent.

IV. ORDER

For the foregoing reasons, General Plastic's Request for Rehearing is *denied*.

For PETITIONER:
Steven F. Meyer
Tim Tingkang Xia
LOCKE LORD LLP
smeyer@lockelord.com
ptopatentcommunication@lockelord.com

For PATENT OWNER:
Justin J. Oliver
Edmund J. Haughey
FITZPATRICK, CELLA, HARPER & SCINTO
Canon820IPR@fchs.com