

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

CURRENT LIGHTING SOLUTIONS, LLC  
D/B/A GE CURRENT

Petitioner,

v.

JIAXING SUPER LIGHTING ELECTRIC APPLIANCE CO., LTD.

Patent Owner.

---

Case No. IPR2023-00270

Patent No. 9,723,662

---

**PATENT OWNER'S SUR-REPLY TO PETITIONER'S PRELIMINARY  
REPLY TO PATENT OWNER'S PRELIMINARY RESPONSE**

## I. INTRODUCTION

Petitioner's Reply to Patent Owner's Preliminary Response attempts to dispute Patent Owner's showing that discretionary denial under § 314(a) is appropriate based on the *General Plastic* factors. But Petitioner mischaracterizes Patent Owner's argument for *General Plastic* Factor 1 and fails to rebut Patent Owner's showing for Factors 3, 6, and 7. Accordingly, discretionary denial of institution is appropriate here.

## II. *GENERAL PLASTIC* FACTOR 1 SUPPORTS DISCRETIONARY DENIAL

Petitioner attacks a strawman by disputing the existence of a "significant relationship" between Petitioner and *MaxLite*, the prior petitioner. Paper 13 ("Reply") at 1-2. Patent Owner's actual argument, however, was that there is a "significant relationship" between Petitioner and *CH* who was identified as a real party in interest in the prior IPR. *See* Paper 10 at 36-37. Petitioner does not dispute that there is a "significant relationship" between Petitioner and CH.

Petitioner is dismissive of the Board's precedential decision in *Valve* and takes too narrow a view of *General Plastic* Factor 1. Post-*Valve* cases have found *General Plastic* Factor 1 to favor discretionary denial in cases similar to this one.

In *PayPal, Inc. v. IOENGINE, LLC*, for example, the Board reasoned that there was a "significant relationship" between the Petitioner and its supplier / indemnitor, Ingenico, who had previously challenged the same patent. IPR2019-

00884, Paper 22 at 9-11 (Oct. 3, 2019). The relationship between Petitioner and CH (Ruising's parent) who was an RPI in the MaxLite IPR proceeding is significant in the same way. *See* Paper 10 ("POPR") at 36-37.

In *Ericsson Inc. v. Uniloc 2017, LLC*, the Board found that *General Plastic* Factor 1 favored discretionary denial because the petitioner's use of prior petitions as a roadmap "implicitly created" a "significant relationship" with the prior petitioners. IPR2019-01550, Paper 8 at 12 (Mar. 17, 2020). Similarly here, Petitioner created a significant relationship with MaxLite and CH by using their failed petition as a roadmap for Petitioner's own petition. *See* POPR at 37-38.

**A. *General Plastic* Factor 3 Supports Discretionary Denial**

Petitioner argues that *General Plastic* Factor 3 favors institution because it did not delay filing its petition to gain a strategic advantage. Reply at 2. But *General Plastic* Factor 2 considers "whether at the time of filing of the second petition the petitioner already received the patent owner's preliminary response to the first petition or received the Board's decision on whether to institute review in the first petition." It is beyond dispute that Petitioner had the benefit of the Board's decision identifying the defects in the MaxLite IPR petition when it prepared its own petition. Indeed, Petitioner filed and discussed the Board's decision denying institution of the MaxLite petition in its own Petition. *See* Pet. at 8 (discussing Ex. 1008).

### III. CONCLUSION

For the reasons set forth above and in Patent Owner's Preliminary Response, Paper 10 at 34-38, the Board should deny institution under 35 U.S.C. § 314(a) / *General Plastic*.

Dated: July 5, 2023

Respectfully submitted,

*/Patrick J. McKeever/*

---

Lead Counsel

Patrick J. McKeever, Reg. No. 66,019

Back-Up Counsels

Miguel Bombach, Reg. No. 68,636

Matthew C. Bernstein (pro hac vice)

Evan Day, Reg. No. 75,992

Han-Wei Chen, Reg. No. 75,350

Wei Yuan, Reg. No. 71,772

PERKINS COIE LLP

11452 El Camino Real, Suite 300

San Diego, California 92130

Tel: (858) 720-5700

*Attorneys for Patent Owner*

*Jiaxing Super Lighting Electric Appliance  
Co., Ltd.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 5th day of July 2023, a true and correct copy of the foregoing PATENT OWNER'S SUR-REPLY TO PETITIONER'S PRELIMINARY REPLY TO PATENT OWNER'S PRELIMINARY RESPONSE was served via electronic mail upon the following counsel of record for Petitioner:

Eagle H. Robinson  
[eagle.robinson@nortonrosefulbright.com](mailto:eagle.robinson@nortonrosefulbright.com)

Arthur P. Licygiewicz  
[art.licygiewicz@nortonrosefulbright.com](mailto:art.licygiewicz@nortonrosefulbright.com)

Catherine J. Garza  
[Cat.garza@nortonrosefulbright.com](mailto:Cat.garza@nortonrosefulbright.com)

James G. Warriner  
[jimwarriner@nortonrosefulbright.com](mailto:jimwarriner@nortonrosefulbright.com)

Jeremy B. Albright  
[jeremy.albright@nortonrosefulbright.com](mailto:jeremy.albright@nortonrosefulbright.com)

Norton Rose Fulbright US LLP  
98 San Jacinto Boulevard, Suite 1100  
Austin, TX 78701

Dated: July 5, 2023

/Kristina Grauer/  
Kristina Grauer  
Paralegal