UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

US CONEC LTD.,
Petitioner

v.

SENKO ADVANCED COMPONENTS, INC.,
Patent Owner

Case IPR2024-00116
U.S. Patent No. 11,307,369

PETITIONER'S NOTICE RANKING PETITIONS FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 11,307,369

Mail Stop ***"PATENT BOARD"***
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

I. INTRODUCTION

Petitioner US Conec Ltd. ("Petitioner") is simultaneously filing two Petitions: IPR2024-00115 (claims 1-22) and IPR2024-00116 (claims 23-40), collectively challenging the patentability of claims 1-40 in U.S. Patent No. 11,307,369 (the '369 patent). As each is to different claim scope/sets and uses different prior art, Petitioner respectfully asks the Board to institute both Petitions. Pursuant to the Trial Practice Guide, Petitioner (1) ranks the -00116 Petition higher than the -00115 Petition; (2) provides "a succinct explanation of the differences between the petitions"; and (3) explains "why the issues addressed by the differences are material" and "why the Board should exercise its discretion to institute additional petitions." CTPG (Nov. 2019), 60.

II. RANKING OF THE PETITIONS

The Board should consider the merits of the petitions in the following order:

1. IPR2024-00116 ("-00116 Petition"); and
2. IPR2024-00115 ("-00115 Petition").

III. SUCCINCT EXPLANATION OF DIFFERENCES BETWEEN THE PETITIONS

There are at least four reasons both Petitions should be instituted

First, as noted, the -00115 Petition addresses only claims 1-22, while the -00116 Petition addresses only claims 23-40. And Petitioner challenges each claim of the ’369 patent only twice in the respective Petitions. The Petitions have eight Grounds in total:

IPR2024-00115			
Ground	**Basis**	**References**	**Claims**
1	§ 103	Scherer (EX1003) and Lee (EX1004)	1-17, 20 and 21
2	§ 103	Scherer, Lee, and Gniadek (EX1010)	18, 19, and 22
3	§ 102	Lee	1-17, 20, and 21
4	§ 103	Lee	18, 19, 21, and 22

IPR2024-00116			
Ground	**Basis**	**References**	**Claims**
1	§ 102	Nguyen (EX1009)	23-26 and 40
2	§ 103	Nguyen and Lin (EX1005)	27-39
3	§ 103	Scherer (EX1003) and Lin	23-39, 39, and 40
4	§ 103	Scherer, Lin, and Gniadek (EX1010)	37 and 38

Second, the -00115 Petition addresses claims related to optical fiber connectors comprising "first and second optical fiber ferrules." In contrast, the -00116 Petition addresses claims relate to optical fiber connectors comprising "a multi-fiber ferrule configured to terminate a plurality of optical fibers." Because of the claim scope differences, the Petitions rely on different prior art. In fact, every ground in each Petition rests on at least one prior art reference that is not used in the other Petition.

Third, the Board recognizes that there are instances where more than one petition is appropriate against a single patent, particularly "when the patent owner has asserted a large number of claims in litigation." CTPG (Nov. 2019) at 59. This is the case here. On January 24, 2023, Patent Owner served Petitioner with a complaint generally alleging that Petitioner's products "infringe at least claims 1-20 and 22-39 of the '369 patent." EX1020, 16, ¶81.

Finally, not only are there 40 total claims, but claims 1, 20, 21, 22, 23, 39, and 40 are all nearly column length independent claims each including a different and diverse set of elements. The space needed to articulate reasons for invalidity for the many, yet unnovel, elements also justifies the filing of two Petitions.

Because of these issues, Petitioner could not reasonably fit its analysis of all of the 38 total asserted claims and 40 overall claims in fewer than the two Petitions.

IV. THE BOARD SHOULD EXERCISE ITS DISCRETION TO INSTITUTE BOTH PETITIONS.

The Board should institute both petitions here because every *General Plastic* factor weighs in favor of instituting both petitions. 37 C.F.R. § 314(a); *see General Plastic Industrial Co., Ltd. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19 at 5 (P.T.A.B. Sep. 6, 2017) (precedential).

First, the two simultaneous Petitions are directed to entirely different groups of claims with no overlap there between. Thus, *General Plastic* Factor 1 weights in favor of instituting both Petitions.

Second, the two simultaneous Petitions here do not present the potential inefficiency or prejudice that concerned the Board in *General Plastic*, which examined so-called "staggered" or "follow-on" petitions that are not filed simultaneously. *General Plastic*, Paper 19 at 17. Here, the two Petitions are being filed on the same day, and no entity has filed a previous petition against the '369 patent. Thus, no time will have elapsed between the Petitions, and Petitioner has not gained any advantage by using earlier preliminary responses or institution decisions as a "roadmap" for its Petitions. *See id.* at 16-17. Accordingly, *General Plastic* Factors 2–5 weigh in favor of instituting both Petitions. *Id.*

Third, regarding *General Plastic* Factor 6, the Board's finite resources, there would be no excessive burden on the Board or Patent Owner in instituting a second trial. Here, Petitioner is filing only two petitions, against a patent

containing 40 claims, using five prior art references in total, thereby avoiding an excessive number of prior-art references. Furthermore, both Petitions apply Scherer and Gniadek with respect to certain features that are common to both Petitions. These common features and references do not make the Petitions redundant due to the different connector types addressed in each Petition. But it does minimize the burden on the Board and Patent Owner.

Fourth, *General Plastic* Factor 7 also favors Petitioner because these two Petitions are being filed on the same day, and thus their respective schedules may be aligned and will not hinder the Board's ability to issue a final determination within one year of institution. Indeed, Petitioner foresees requesting consolidation of these two proceedings should they both be instituted.

Because all seven General Plastic factors weigh in favor of Petitioner, the Board should institute both Petitions.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

/Jason D. Eisenberg/

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Date: January 6, 2024

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CERTIFICATION OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PETITIONER'S NOTICE RANKING PETITIONS FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 11,307,369** was served in its entirety upon the Patent Owner on January 6, 2024, via FedEx® Express at the following addresses:

SENKO ADVANCED COMPONENTS, INC.
2 Cabot Road, Suite 103
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Patent Owner's Correspondence Address of Record for U.S. Patent No. 11,307,369

STINSON LLP
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Respectfully submitted,

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