

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AFFORDABLE WIRE MANAGEMENT, LLC,
Petitioner,

v.

CAMBRIA COUNTY ASSOCIATION FOR THE BLIND AND
HANDICAPPED, INC.,
Patent Owner.

IPR2024-00182
Patent 11,349,291 B2

**PETITIONER'S EXPLANATION OF MULTIPLE PETITIONS
CHALLENGING U.S. PATENT NO. 11,349,291**

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I. INTRODUCTION

Petitioner Affordable Wire Management, LLC (“AWM” or “Petitioner”) is simultaneously filing two petitions¹ challenging the claims of U.S. Patent No. 11,349,291 (the “’291 Patent”) (EX1001), and asks the Board to institute both petitions. Pursuant to the November 2019 Consolidated Trial Practice Guide (“2019 TPG”) AWM provides this explanation of the two petitions and ranking.

First, given the number and length of the challenged claims, Petitioner could not properly present these challenges within the word limit of a single petition.

Second, Patent Owner has yet to disclosed which claims it is asserting in the related district court litigation, *Cambria Cnty Ass’n., Inc. v. Affordable Wire Mgmt., LLC*, No. 1:23-cv-00080 (D. Del.).

Third, the two petitions substantively differ in that each relies on different prior art, and challenges the validity of different sets of claims.

Accordingly, discretion is warranted under 35 U.S.C. §314(a) to institute under these differences, and in light of *General Plastic Industrial Co., Ltd. v. Canon*

¹ *Affordable Wire Management, LLC v. Cambria County Association for the Blind and Handicapped, Inc.*, IPR2024-00178, Paper No. 1 (PTAB Nov. 10, 2024) (the IPR2024-00178 Petition”); and *Affordable Wire Management, LLC v. Cambria County Association for the Blind and Handicapped, Inc.*, IPR2024-00182, Paper No. 1 (PTAB Nov. 10, 2024) (the IPR2024-00182 Petition”).

Kabushiki Kaisha, IPR2016-01357, Paper 19 at 5, 9-10 (PTAB. Sept. 06, 2017) (precedential).

A. Claim Length and Related Litigation Necessitate Two Petitions

The '291 Patent contains 25 claims comprising 1,363 words—almost 10% of the 14,000 word count limit for petitions. Five claims are independent, of which several have as many as nine claim elements. Thus, the amount of space required to address the lengthy '291 Patent claims is significant and requires two petitions.

Further, narrowing the challenged claims is not possible at this time because Patent Owner has not identified the claims it is asserting against AWM in the related district court litigation. As such, it remains a possibility that Patent Owner will attempt to assert any of the challenged claims at some future date. Indeed, Patent Owner broadly leaves open the possibility of asserting all the '291 Patent claims in its pleadings. *Cambria Cnty Ass'n., Inc. v. Affordable Wire Mgmt., LLC*, No. 1:23-cv-00080, Dkt. 18, 22 (D. Del.); *see* Dkt 22 at 4, 12 (“[D]irect infringement of *at least* claim 1 of the '291 Patent...Moreover, with respect to indirect infringement of *at least* claim 14 of the '291 Patent...”) (emphasis added).

Therefore, to prevent any prejudice and preserve AWM's challenge of the claims Patent Owner later asserts, and to adequately address the lengthy '291 Patent claims, two petitions are needed.

B. The Parallel Petitions Have Material Differences

Substantively, the parallel petitions differ in that each challenge a unique set of claims in view of different references. For example, the IPR2024-00178 Petition uniquely challenges claims 24-25, which are directed to the methods of attaching and using the claimed cable hangers. In comparison, the IPR2024-00182 Petition uniquely challenged claims 13 and 23 which are related to the UV coatings applied to the claimed cable hangers.

Further, the two petitions rely on primary prior art references and differ in type and content. Specifically, the IPR2024-00178 Petition discusses U.S. patent prior art references (i.e., *Caveney* and *Carr*); and the IPR2024-00182 Petition concerns Patent Owner's own prior art product catalog, which not a patent (i.e., *CAB Catalog*). A single petition would not allow AWM to adequately explain or discuss the scope of the claims or reasons to combine the prior art. Separately, while both petitions apply *Almy* as a secondary reference to demonstrate the use of cable hangers in the solar industry context, the differences in primary references are still significant.

C. The *General Plastic* Factors Favor Institution of Both Petitions

The *General Plastic* factors weigh in favor of instituting both petitions. *General Plastic Co., Ltd.*, IPR2016-01357, Paper 19 at 9-10 (Identifying seven non-exhaustive factors: (1) whether the same petitioner previously filed a petition

directed to the same claims of the same patent; (2) whether at the time of filing of the first petition the petitioner knew or should have known of the prior art asserted in the second petition; (3) 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; (4) the time elapsed between when the petitioner learned of the prior art asserted in the second petition and filed the second petition; (5) whether the petitioner provides adequate explanation for the time elapsed between filing multiple petitions; (6) the finite resources of the Board; and (7) the requirement to issue a final determination not later than 1 year after institution of review.).

First, the two simultaneous petitions are not directed to the same grouping of claims. While Petition IPR2024-00178 challenges claims 1-10, 14-22, and 24-25, Petition IPR2024-00182 challenges claims 1-13 and 14-23. Thus, *General Plastic* factor 1 weighs in favor of instituting both Petitions.

Second, the two simultaneous petitions do not present the potential inefficiency or prejudice that concerned the Board in *General Plastic*. Here, the two petitions are being filed on the same day, and no other entity previously filed a petition against the '291 Patent. In other words, no time has elapsed between the petitions, and AWM has not gained any advantage by using earlier preliminary

responses or institution decisions as a “roadmap” for its petitions. Accordingly, *General Plastic* Factors 2-5 weigh in favor of instituting both Petitions.

Third, there would be no excessive burden on the Board or Patent Owner by instituting both petitions. AWM is avoiding an excessive number of prior-art references by filing two petitions asserting one or two “primary references” (*Caveney* and *Carr*, and *CAB Catalog*). The references are different because two are patents and the other the Patent Owner’s catalog. Additionally during prosecution, the examiner did not consider or cite *Caveney* and *CAB catalog*. Thus, *General Plastic* Factor 6 supports instituting both petitions.

Fourth, *General Plastic* Factor 7 also favors AWM because the two simultaneous petitions were 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.

D. Ordering of Petitions

Petitioner requests that the Board consider the petitions in the following order:

Rank	IPR Petition	Primary Reference(s)	Challenged Claims
A	IPR2024-00178	Caveney and Carr	1-10, 14-22, 24-25
B	IPR2024-00182	CAB Catalog	1-13, 14-23

II. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Board institute both *inter partes* reviews under 35 U.S.C. § 314(a).

Dated: November 10, 2023

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CERTIFICATE OF SERVICE

I certify that copies of the foregoing Petitioner's Explanation of Multiple Petitions Challenging U.S. Patent No. 11,349,291 was served electronically and via FedEx Priority Overnight on the Patent Owner at the correspondence address of record for the '291 Patent as indicated on the USPTO Patent Center:

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