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Subject: RE: IPR2024-00611: Unopposed Request for Correcting the Petition
Date: Tuesday, April 30, 2024 10:52:33 AM
Attachments: [image001.png](#)

Good morning, counsel –

From the Board -

In view of the absence of opposition from the Patent Owner, Petitioner's request to file a corrected Petition is granted. If Patent Owner seeks an extension of time to file its Preliminary Response, it should inform the Board of the basis and duration of such request within three business days.

Regards,

Esther Goldschlager
Supervisory Paralegal Specialist
Patent Trial & Appeal Board
U.S. Patent & Trademark Office

From: Grace Kim <gkim@fr.com>
Sent: Thursday, February 29, 2024 6:23 PM
To: Trials <Trials@USPTO.GOV>
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Subject: IPR2024-00611: Unopposed Request for Correcting the Petition

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Dear Honorable Board:

Last Friday, February 23rd, Air Products and Chemicals Inc. filed a petition for *inter partes* review of U.S. Patent No. 10,471,380 (IPR 2024-00611).

Earlier this week, Petitioner's counsel noticed an error in the petition. The error is that the petition cites to U.S. Patent No. 8,999,038 (Ungerank) (AP-1006) as prior art instead of the earlier patent application publication for that patent (U.S. Publ. No. 2013/0098242A1). The specification and figures in the patent and the application publication are identical, except for formatting. In other words, the petition cites to the correct teachings of Ungerank, but references the wrong document.

Petitioner seeks to correct the error by making the changes to the petition shown in the screenshot below, and by adding the patent application publication as an exhibit (AP-1038) to the petition. Petitioner seeks no other changes to the petition (apart from updating the word count and dates) or filed exhibits.

The portions of U.S. Patent No. 8,999,038 (AP-1006“Ungerank”), cited by column and line numbers herein and in AP-1003, areis prior art under §102(a)(12), as they were published on April 25, 2013 in U.S. Patent App. Pub. No. 2013/0098242 (AP-1038) (“Ungerank”). The publication’s specification and figures are identical to the patent. Compare AP-1006 to AP-1038. Ungerank issued under §151, names another inventor than the ’380 patent’s named inventor, and was filed May 26, 2011, effectively before the earliest effective filing date of the ’380 patent. AP-1006, 1.

In addition, in order to prevent any prejudice to Patent Owner, Petitioner does not oppose an extension of the due date for Patent Owner’s Preliminary Response corresponding to the number of days it takes to resolve this issue.

If the Board determines that briefing is needed on this issue, Petitioner requests 5 pages of briefing and that the page limit for any response from Patent Owner also be 5 pages, and that Petitioner submit a brief within 2 business days of the Board notifying the parties.

Petitioner’s counsel emailed counsel for Patent Owner today (February 29, 2024) regarding the error and correction. In its email, Petitioner’s counsel provided Patent Owner’s counsel with a red-line of the petition showing the proposed changes, a copy of the new exhibit (AP-1038), and a draft of this email.

Patent Owner’s counsel does not oppose Petitioner’s request.

Best regards,
Grace

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