

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SALVACION USA, INC.,
Petitioner,

v.

TRUTEK CORP.,
Patent Owner

U.S. Patent No. 8,163,802
Issued: April 24, 2012

Title: ELECTROSTATICALLY CHARGED MULTI-ACTING NASAL
APPLICATION, PRODUCT, AND METHOD

Inter Partes Review No. IPR2024-00711

PETITIONER'S REQUEST FOR REHEARING

Pursuant to 37 C.F.R. 42.71 § (d)(2), Petitioner, Salvacion USA, Inc., hereby requests rehearing of the Final Written Decision (Paper 33) (the “Decision”) issued by the Board in this matter on December 2, 2025. As set forth herein, the Decision did not address all grounds presented in the Petition in this proceeding (Paper 2), as required by court precedent and the procedures applicable to final written decisions for AIA trial proceedings. Petitioner therefore requests that the Board revise the Decision to address this ground.

FACTUAL BACKGROUND

Petitioner filed its Petition (Paper 2) regarding U.S. Patent No. 8,163,802 (the “’802 Patent”) on May 29, 2024. The petition asserted what were categorized as five grounds, including “Ground 5: Claim 3 is Rendered Obvious by Rolf in View of Wahi ’005.” *See* Paper 2 at ix. Ground 5 was argued substantively in the Petition at page 60, with support from Petitioner’s expert Dr. Park (Paper 2 at 60, citing Ex. 1002 ¶¶ 437-40). Patent Owner responded to this ground in its preliminary response. *See* Paper 6 at 57-59. The parties also addressed this ground in their demonstrative slides (see Ex. 1030 at 68-72, Ex. 2008 at 38) and at oral argument. (*See* Paper 31 at 22-25.)

Despite, as set forth above, the parties having addressed the ground asserting that *claim 3* is obvious over the combination of Rolf in view of Wahi ’005, in the Decision, the Board included a chart in two locations showing that it was *claim 2*

that was asserted to be obvious over this combination. (*See* Paper 33 at 6, 38.) This likely occurred due to a clerical error.¹ However, as a result of this error, because the Board had found in the Decision that claim 2 was both anticipated and obvious over Rolf alone, the Board never addressed Petitioner’s ground asserting that claim 3 was obvious over the combination of Rolf and Wahi ’005.

LEGAL ARGUMENT

In *SAS Institute, Inc. v. Iancu*, 584 U.S. 357 (2018), the Supreme Court ruled that where the PTAB institutes *inter partes* review, it must decide the patentability of all challenged claims. *Id.* at 362, 371. Expanding upon this ruling, the Federal Circuit has held that the Board must also address all grounds of unpatentability raised by the petitioner. *See AC Technologies S.A. v. Amazon.com, Inc.*, 912 F.3d 1358, 1364 (Fed. Cir. 2019). The PTAB has also put into place a procedure dictating that where *inter partes* review has been instituted, the Board should address not just all claims challenged, but all grounds asserted by the Petitioner. *See* “Final Written Decision Procedures for AIA Trial Proceedings,” July 29, 2025 (retrievable at

¹ Due perhaps to another clerical error, the Decision also states that Salvacion Co. Ltd. and Pharmhealth Technolgies Inc. are real-parties-of-interest in addition to Petitioner. Paper 33 at 1. However, Petitioner had previously filed an Updated Mandatory Disclosure stating that Salvacion Co. Ltd. is no longer a real-party-in-interest. *See* Paper 10. Petitioner respectfully requests, if the Board revises and reissues its Decision, that Salvacion Co., Ltd. be deleted from the sentence in question.

<https://www.uspto.gov/sites/default/files/documents/20250729095727582.pdf>) (the “Procedure”). The purpose of the Procedure is not merely to comply with court precedent, but also “to promote compact decision making and ensure that panels will not be required to address grounds for the first time in the event of a remand from Director Review decision or Federal Circuit appeal.” *Id.*

Here, as the result of a likely clerical error, the Board did not address Petitioner’s ground that claim 3 was obvious over the combination of Rolf and Wahi ’005. This result is counter to the Procedure, as well as the Federal Circuit precedent, providing that all grounds raised in the petition should be addressed in the final written decision.

Therefore, in order to comport with the Procedure and precedent, Petitioner respectfully requests that the Board revise and reissue its Final Written Decision in this proceeding to address the ground that claim 3 of the ’802 Patent is obvious over the combination of Rolf and Wahi ’005.

Respectfully submitted,

VORYS, SATER, SEYMOUR AND PEASE LLP

Dated: December 11, 2025

/s/William H. Oldach III

William H. Oldach III

Reg. No. 42,048

Lead Counsel for Petitioner

Mih Suhn Koh

Reg. No. 65,080

Maryellen Feehery Hank

Reg. No. 44,677

Bradley A. Hough

Reg. No. 78,386

CERTIFICATION OF SERVICE

The undersigned hereby certifies that the above-captioned “Petitioner’s Request for Rehearing” was served on December 11, 2025, upon the following via email:

uspto@patentsgroup.com
shk@shk-dplc.com

As well as a courtesy copy to the Patent Owner’s litigation counsel, by email:

keithaltman@kaltmanlaw.com
solomonradner@kaltmanlaw.com
loricrusselle@kaltmanlaw.com

VORYS, SATER, SEYMOUR AND PEASE LLP

/s/ William H. Oldach III
Lead Counsel for Petitioner
Registration No. 42,048