

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PROAMPAC HOLDINGS INC.,

Petitioner

v.

SIGMA TECHNOLOGIES INTERNATIONAL, LLC,

Patent Owner

Case IPR2025-01143
U.S. Patent No. 11,072,148

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

The Petition describes the Voluntary Standard Reference as AAPA throughout. See Paper 1 at 6, 14, 28, 66, 68. This characterization is most explicit at page 6: “The Voluntary Standard Reference is admitted prior art that includes the following testing procedure (hereafter “the Voluntary Standard”)...” Under *Qualcomm*, “[Petitioner] should be held to the phrasing of its petition because an IPR petitioner is the ‘master of its own petition.’” *Id.* at 1367. Such an explicit designation cannot be “walked-back” in a reply. Because Grounds 4-6 rely on the Voluntary Standard to supply missing limitations, and the Petition itself expressly identifies that reference as AAPA, those grounds do not comply with §311(b). *Id.*, 1364-65.

Petitioner’s citations to EX1007 elsewhere do not cure its AAPA reliance. *Qualcomm* specifically rejected a rule that would allow petitioners to combine AAPA with printed publications to meet a limitation. See *Qualcomm*, 134 F.4th at 1366 (rejecting the PTO’s rule permitting AAPA to be used in combination with written prior art under §311(b)). Even partial reliance on AAPA as part of the basis of a ground is impermissible. Here, at best, Grounds 4-6 rest on a hybrid mixture of EX1007 and AAPA, which *Qualcomm* forbids.

Even if the Board accepts that Ex. 1007 is a properly considered printed

publication, the Petition relies on a “Voluntary Standard” test, *based on the ’148 patent disclosure*, to fill gaps in the prior art. This case is distinguishable from the *Juniper Networks, Inc.* case, because here the Petition relies on Applicant admissions which are substantively different than those of the parallel reference. This is because the test described and claimed in the ’148 patent and the one described in Ex. 1007 are not the same.

The Petition *defines* the term “Voluntary Standard” according to the AAPA disclosure from the ’148 Patent:

The Voluntary Standard Reference is admitted prior art that includes the following testing procedure (hereafter “the Voluntary Standard”):

- a) blending the packaging in a Waring Blender to form a first material;
- b) disintegrating the first material into water with a British Disintegrator at 125 (± 10) degrees F. at 3000 rpm to form a second material;
- c) separating the second material in a 0.01 inch screen with a 1 inch water head for 20 minutes to form a fourth material; and
- d) drying the fourth material in an oven for 4 hours at 221 degrees F.

Id. [*the ’148 Patent*], at 1:33-45, 2:5-13, 2:52-62, 3:4-11, 3:42-49.

Paper 1 at 6-7. This definition of “Voluntary Standard” is different from a similar test described in Ex. 1007. See, e.g., Paper 1, 16 (describing Ex. 1007’s test as requiring, for example, drying for “12 hours” rather than the 4 hours disclosed in the ’148 patent and including many other required steps

which are not included in the claim limitations; compare Ex. 1007, 9 (repulping test) with Paper 1, 6-7). But the Petition blurs the distinction between these disclosures, and mixes references to the “Voluntary Standard” (AAPA) with references to the “Voluntary Standard Reference” (Ex. 1007). In Ground 4, for example, the Petition states “By 2018, it was predictable to implement the Voluntary Standard on Gundlach’s packaging to form a recyclable material. EX1003, ¶207.” Paper 1, 68 and see 66-67. The Petition also relies on the AAPA Voluntary Standard for disclosure of a recyclability treatment that results in full oxidation of the aluminum layer. Paper 1, 3, 29-30, 52 and 28 (“according to the ’148 Patent, it is the vacuum deposition of the aluminum at no more than 200 nm thickness that causes full oxidization of the aluminum layer when it is subjected to the Voluntary Standard.”) Ex. 1007 is never cited for this disclosure of full oxidization. This is exactly the reliance on AAPA that *Qualcomm* prohibits.

Finally, even if the Board concludes that the Voluntary Standard Reference may be relied on, it fails to cure the deficiencies of Gundlach. The Voluntary Standard is a test protocol – it does not and cannot disclose structures to pass the test, or the aluminum layer having an optical density of less than .09 after the test.

This 21st day of November, 2025.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6 (e), the undersigned certifies that the foregoing Response to Petitioner's Reply to Patent Owner's Preliminary Response is being served on counsel of record by filing the document through the Patent Trial and Appeal Case Tracking System (P-TACTS), with a copy served via electronic mail to the following email address, as authorized in Petitioner's Mandatory Notices:

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