

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HUHTAMAKI FLEXIBLE PACKAGING GERMANY GMBH & CO. KG,

Petitioner,

v.

ADAPA FLEXIBLES DENMARK SLAGELSE A/S,

f/k/a DANAPAK FLEXIBLES A/S,

Patent Owner.

PGR2023-00008

Patent 11,260,624

**PATENT OWNER'S LIST OF NEW ARGUMENTS RAISED IN
PETITIONER'S OPPOSITION TO PATENT OWNER'S REVISED
MOTION TO AMEND**

On March 28, 2024, Petitioner emailed the Board (*See* EX3001) seeking authorization from the Board to strike the following arguments from the record:

Adapa's untimely arguments (and belatedly presented evidence) asserted in a manner nonresponsive to the present motions to amend, in which Adapa argues that Petitioner Huhtamaki's patent prosecution before the USPTO supports Patent Owner's arguments regarding the plain and ordinary meaning of a tie layer as originally set forth in its Preliminary Response and substantially unaltered throughout this proceeding. PO Reply to Opp. RMTA, 1-6; see also PO Prelim. Resp., 51, 52, 55; PO Resp., 9-16, 32-75; PO Sur-Reply, 1-19.

On April 2, 2024, the Board issued an Order providing it was unpersuaded that a motion to strike was warranted while authorizing both parties to file respective papers related to Petitioner's request. Specifically, the Board authorized Patent Owner to file a paper calling the Board's attention to specific portions of each Opposition to Amend it believes raises new arguments. Paper 45 (Order Conduct of the Proceeding), 2, 3. Petitioner was authorized to file a similar paper.

Patent Owner provides the following non-exhaustive, numbered, and itemized list (providing the paper, page, and line number location only) of new arguments raised in Petitioner's Opposition to PO's RMTA (Paper 36) that are of relevance to Petitioner's request.

1. Paper 36, page 1, lns. 1–12
2. Paper 36, page 1, ln. 13 – page 2, ln. 3.

3. Paper 36, page 2, lns. 7–19.
4. Paper 36, page 3, ln. 17 – page 4, ln. 9.
5. Paper 36, page 6, ln. 8 – page 25, ln. 8.
 - a. Paper 36, page 7, ln. 20 – page 8, ln. 3.
 - b. Paper 36, page 10, lns. 13–17.
 - c. Paper 36, page 13, lns. 13–15.
 - d. Paper 36, page 14, lns. 9–16.
 - e. Paper 36, page 17, ln. 23 – page 18, ln. 7.
 - f. Paper 36, page 21, ln. 16–20.
 - g. Paper 36, page 22, ln. 9–18.
 - h. Paper 36, page 23, lns. 5–10.

By: /Steven Avena/
 Steven A. Avena

On: April 4, 2024

For: Patent Owner

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CERTIFICATE OF SERVICE

I, Steven A. Avena, hereby certify that a copy of the foregoing has been served on the attorneys of record of Huhtamaki Flexible Packaging Germany GmbH & Co. KG ("Petitioner") electronically by email¹ as of today, April 4, 2024, at the following electronic addresses:

General Email: litigation@iplawgroup.com

Ryan D. Levy (Lead Counsel): rdl@iplawgroup.com

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By: /Steven Avena/
Steven A. Avena

On: April 4, 2024

For: Patent Owner

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¹ Petitioner has consented to electronic service by email. See Petition, § II.D.