

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CORNING INCORPORATED
Petitioner

v.

DSM IP ASSETS B.V.
Patent Owner

Case IPR2013-00043 (Patent 7,171,103)
Case IPR2013-00044 (Patent 6,961,508)
Case IPR2013-00045 (Patent 6,339,666)
Case IPR2013-00046 (Patent 6,110,593)
Case IPR2013-00047 (Patent 6,438,306)
Case IPR2013-00048 (Patent 6,298,189)
Case IPR2013-00049 (Patent 6,298,189)
Case IPR2013-00050 (Patent 6,323,255)
Case IPR2013-00052 (Patent 7,276,543)
Case IPR2013-00053 (Patent 7,276,543)¹

Before GRACE KARAFFA OBERMANN, JENNIFER S. BISK, and
SCOTT E. KAMHOLZ, *Administrative Patent Judges*.

KAMHOLZ, *Administrative Patent Judge*.

¹ This Order addresses issues that arise in all ten cases. We therefore exercise our discretion to issue one Order to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

DECISION
On Request for Rehearing
37 C.F.R. § 42.71

DSM requests rehearing of our Decision on Rehearing entered December 9, 2013. DSM requests that a supplemental response declaration of Professor Christopher Bowman be authorized in case IPR2013-00052 and that the deadline for filing the Supplemental Responses and supplemental response declarations be extended to December 27, 2013. The Board grants the requests to the extent explained below.

1. Supplemental response declaration in IPR2013-00052

A typographical error in our December 9, 2013 rehearing decision is responsible for this confusion. The discussion in the first full paragraph on page 4 should have been directed to cases IPR2013-00050 and -00053, not -00052. A supplemental response declaration should have been authorized in IPR2013-00052 instead of in IPR2013-00053.

2. Extension of time to file Supplemental Responses

DSM argues that we erred in refusing to grant the requested extension of time because we failed to appreciate that Due Date 4 has been extended, by stipulation, to January 21, 2014. DSM states that Professor Bowman has teaching responsibilities through Thursday, December 12, 2013 and will be unduly burdened to meet the December 13, 2013 filing deadline. DSM also states that it will conduct a cross-examination deposition of Dr. Sogah on December 13, 2013, and Professor Bowman needs time to review the transcript.

We have reconsidered our decision but remain unpersuaded that DSM has shown good cause for an extension of time. DSM has been in possession of all the gel permeation chromatography information that

Professor Bowman is authorized to testify about since November 20, 2013. DSM has not explained why a period of time in excess of three weeks is insufficient for this purpose. The timing of DSM's cross-examination of Dr. Sogah is irrelevant; Professor Bowman's supplemental response declaration is to be directed solely to his interpretation of the late-produced gel permeation chromatography data itself, not to his opinion of Dr. Sogah's interpretation of it. Dr. Bowman may address Dr. Sogah's interpretation of the data in a reply declaration.

We have now twice considered the issue of extending DSM's due date for filing its Supplemental Replies and the supplemental reply declaration of Professor Bowman. DSM has failed, both times, to show good cause for an extension beyond December 13, 2013. We exercise our discretion under 37 C.F.R. § 42.5 to order that DSM may not seek further rehearing on this issue without our prior authorization.

It is hereby

ORDERED that items 1 and 3 on page 5 of the December 9, 2013 Decision on the Request for Rehearing are corrected to read as follows:

1. DSM is authorized to submit a supplemental response declaration of Professor Christopher Bowman with its Supplemental Response in IPR2013-00043, -00044, -00045, -00046, -00047, -00048, -00049, and -00052;
3. DSM is not authorized to submit a supplemental response declaration of Professor Christopher Bowman with its Supplemental Response in IPR2013-00050 or in IPR2013-00053;

FURTHER ORDERED that DSM's request for an extension of time from December 13, 2013 to December 27, 2013 in which to submit the Supplemental Response and supplemental response declaration of Professor Bowman is *denied*; and

FURTHER ORDERED that DSM may not seek rehearing on our decision on the extension of time without prior authorization of the Board.

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