Paper No. \_\_\_\_\_ Filed: August 17, 2017

### UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

### **R.J. REYNOLDS VAPOR COMPANY,**

Petitioner

v.

### FONTEM HOLDINGS 1 B.V.

Patent Owner

Case No. **IPR2016-01692** Patent No. **9,326,548** 

### PETITIONER REPLY IN SUPPORT OF PETITION FOR *INTER PARTES* REVIEW

DOCKET

# TABLE OF CONTENTS

PETI	TIONE	ER'S E	EXHIB	IT LISTiv		
PATE	ENT O	WNEI	R'S EX	XHIBIT LIST vii		
I.	INTR	INTRODUCTION				
II.		P.O.'S PROPOSED CONSTRUCTION OF "SET ON" IS IMPROPERLY NARROW				
III.	CLAI	MS 1-	7 ARI	E OBVIOUS		
	A.		The PHOSITA would have been motivated to combine Ion 043 with Whittemore			
		1.		nal Efficiency Would Have Motivated The osed Combination		
		2.		ble Liquid Delivery Provides Motivation For Proposed Combination11		
		3.		eme Court Endorsed Rationales Support bining Hon 043 and Whittemore12		
			a.	Combination of prior art elements according to known methods		
			b.	Simple substitution		
			c.	Known technique to improve similar devices in the same way14		
			d.	Known device ready for improvement15		
			e.	Obvious to try15		
	В.	The Combination of Hon 043 And Whittemore Teaches All The Limitations of Claims 1-7				
		1.		043 Teaches a "porous component set on a e"16		
		2.		043 Teaches a "frame having a run-through		
	C.			des That Hon 043 Meets The "Cylindrical nd "Cylindrical Battery" Limitations That Are		

i

		Also Disclosed By Voges	22
	D.	The Combination Teaches The Limitations of Claims 2-7	23
IV.	CLA	IMS 8-10 ARE OBVIOUS	23
V.	CLA	IMS 11-14 ARE OBVIOUS	24
VI.	DR. STURGES' OPINIONS ARE CONSISTENT AND RELIABLE		
VII.	CON	ICLUSION	31

## **TABLE OF AUTHORITIES**

### CASES

<i>In re Fulton</i> , 391 F.3d 1195 (Fed. Cir. 2004)	10
<i>In re Icon Health &amp; Fitness, Inc.</i> , 496 F.3d 1374 (Fed. Cir. 2007)	25
<i>KSR Int'l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007)	
<b>O</b> THER AUTHORITIES	

Manual of Patent Examining Procedure §21	14314, 16
--	-----------

# **PETITIONER'S EXHIBIT LIST**

Exhibit No.	Description
Exhibit 1001:	U.S. Pat. No. 9,326,548 to Lik Hon
Exhibit 1002:	Chinese Pat. No. 2719043Y to Lik Hon
Exhibit 1003:	Certified English translation of Chinese Pat. No. 2719043Y to Lik Hon
Exhibit 1004:	U.S. Pat. No. 2,057,353 to C. L. Whittemore, Jr
Exhibit 1005:	WO 2005/099494, which is the PCT application equivalent of Hon (CN 2719043Y) ("Hon '494")
Exhibit 1006:	Certified English translation of WO 2005/099494 pursuant to 37 C.F.R. 42.63(b)
Exhibit 1007:	Application Data Sheet and Specification of U.S. Pat. Appl. No. 14/244,376 Filed April 3, 2014
Exhibit 1008:	Non-Final Office Action of September 4, 2014 in 14/244,376
Exhibit 1009:	Compilation of prosecution papers filed in 14/244,376
Exhibit 1010:	Non-Final Office Action of August 20, 2015 in 14/244,376
Exhibit 1011:	Amendment of November 20, 2015 in 14/244,376
Exhibit 1012:	Notice of Allowance of March 15, 2016 in 14/244,376
Exhibit 1013:	Board's Decision Denying Institution in IPR2015-00859
Exhibit 1014:	Board's Order Dismissing Petition IPR2015-01587
Exhibit 1015:	Declaration of Dr. Robert Sturges
Exhibit 1016:	Rohsenow, "Heat, Mass, And Momentum Transfer"
Exhibit 1017:	Merriam-Webster Definition of "Set"
Exhibit 1018:	U.S. Pat. No. 6,155,268 to Takeuchi
Exhibit 1019:	U.S. Pat. No. 4,947,874 to Brooks et al.
Exhibit 1020:	U.S. Pat. No. 4,629,665 to Matsuo

iv

# DOCKET A L A R M



# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

# **Real-Time Litigation Alerts**



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

# **Advanced Docket Research**



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

# **Analytics At Your Fingertips**



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

# API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

### LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

### FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

### E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.