

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DONG GUAN LEAFY WINDOWARE CO. LTD.,
Petitioner,

v.

ANLI SPRING CO., LTD. and
HSIEN-TE HUANG,
Patent Owner.

PGR2020-00001
Patent 10,174,547 B2

Before GEORGE R. HOSKINS, MICHAEL L. WOODS, and
SCOTT C. MOORE, *Administrative Patent Judges*.

HOSKINS, *Administrative Patent Judge*.

DECISION

Denying Petitioner's Request on Rehearing of
Final Written Decision Determining Some Challenged Claims Unpatentable
37 C.F.R. § 42.71(d)(2)

ORDER

Expunging Petitioner's Exhibits 1019–1022
37 C.F.R. § 42.7(a)

I. INTRODUCTION

On April 8, 2021, we entered a Final Written Decision (Paper 33, “Decision” or “Dec.”) determining, in part, that Petitioner had not shown claims 1 and 3 of the ’547 patent¹ are unpatentable by a preponderance of the evidence. On May 7, 2021, Petitioner timely filed a Request for Rehearing of that determination in the Decision. *See* Paper 34 (“Petitioner’s Request” or “Req. Reh’g”), 1.

We agree with Petitioner that the Decision misapprehended the evidence of record. Therefore, we modify the Decision to correct this error, as set forth in an Errata separately entered with the present decision. However, even with this correction, we maintain the outcome of the Decision. Therefore, Petitioner’s Request is denied.

Petitioner also filed new evidence with the Request, which Petitioner asserts good cause indicates should be considered by the Board. We disagree, so we expunge the newly-filed evidence from the record.

II. STANDARD FOR REHEARING

Petitioner, as the requesting party here, has the burden of showing the Decision should be modified. 37 C.F.R. § 42.71(d). The Request must specifically identify all matters Petitioner believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in the proceeding. *Id.*

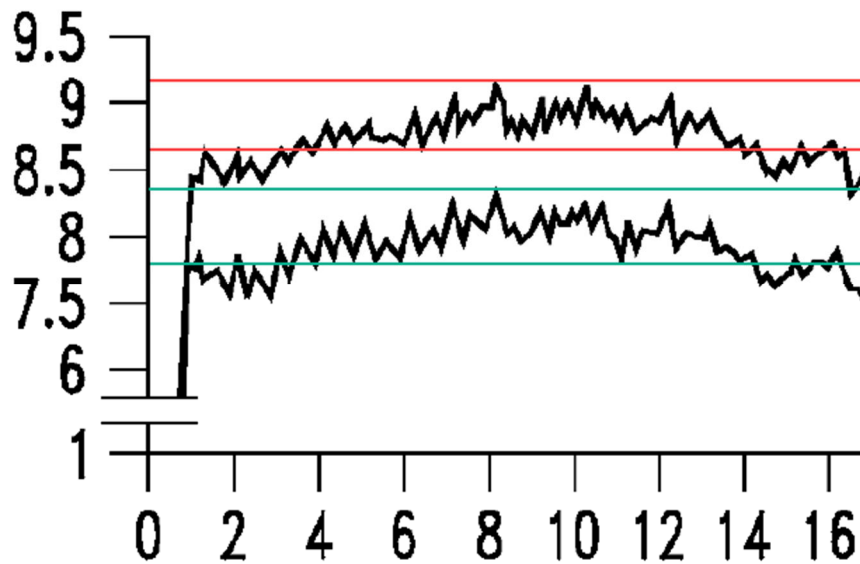
¹ Ex. 1001, U.S. Patent No. 10,174,547 B2.

III. ANALYSIS

A. *Whether the Decision Misapprehended the Disclosure in Figure 6 of Lin '943*

Petitioner's Request asserts the Decision misapprehended the disclosure in Figure 6 of Lin '943². *See* Req. Reh'g 1–2, 5–6. For the following reasons, we agree.

The Decision “discern[ed] . . . sensor noise in the two torque curves” illustrated in Figure 6 of Lin '943. Dec. 30–31. “To illustrate the significance of this noise in Figure 6 of Lin '943, we reproduce[d] the following excerpt of Figure 6, with our annotations.” *Id.* at 31.



This excerpt of Figure 6 “focuse[d] on the portion that is in dispute—the two torque curves between travel lengths 6 and 14—while maintaining the horizontal and vertical axes’ scales,” and “add[ed] horizontal red lines identifying the vertical axis envelope of sensor data in the top curve between travel lengths 6 and 14 on the horizontal axis, and similar horizontal green

² Ex. 1003, U.S. Patent Appl. Pub. No. 2011/0277943 A1.

lines for the bottom curve.” *Id.* Petitioner’s Request does not challenge the foregoing findings.

The challenged findings are that “the top curve varies back and forth between a minimum of about 8.65 kg and *a maximum of about 9.65 kg*, and the bottom curve varies back and forth between a minimum of about 7.70 kg and *a maximum of about 8.70 kg*.” *Id.* at 31–32 (emphases added).

Petitioner argues these findings, as to the respective maximum values of the two curves, misapprehended what is shown in Figure 6 of Lin ’943, and therefore are clearly erroneous under a preponderance of the evidence. *See* Req. Reh’g 1–2, 5–6; 35 U.S.C. § 326(e) (“[T]he petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence.”). As a result, Petitioner argues, the Decision’s further finding that “both envelopes are about 1 kg wide, which represents an 11–12% variation from the nominal 8–9 kg values being recorded” also is in error. Dec. 32; Req. Reh’g 5–6.

We agree with Petitioner that the Decision erred in finding the top red line in Figure 6 of Lin ’943 intersects the vertical axis at about 9.65 kg, and the top green line intersects the vertical axis at about 8.70 kg. We also accept Petitioner’s contention that, viewed correctly, the top red line intersects the vertical axis at about 9.15 kg, and the top green line intersects the vertical axis at about 8.35 kg. *See* Req. Reh’g 1–2, 5–6. With this correction, the Decision’s further finding should have been that the red and green envelopes are both about 0.5–0.65 kg wide (not 1 kg wide), which represents a 5.6–8.1% variation (not an 11–12% variation) from the nominal 8–9 kg values being recorded in Figure 6, due at least in part to sensor noise. *See id.* at 5 & n.1.

Thus, in response to Petitioner’s Request, we modify the Decision as set forth in an Errata separately entered with the present decision.

B. Whether Correcting the Decision’s Erroneous Findings Modifies the Outcome of the Decision

Petitioner’s Request argues the Decision “[s]et[s] out from” the erroneous findings discussed in Section III.A above, which “permeate the reasoning leading to” the Decision’s ultimate conclusion that Figure 6 of Lin ’943 “does not support Petitioner’s contention that Lin ’943 discloses a second torque that is a *constant* torque” as required by claims 1 and 3 of the ’547 patent. Req. Reh’g 2 (citing Dec. 30–36); Dec. 36 (claim 1) (emphasis added), 36–37 (claim 3). Therefore, in Petitioner’s view, the Decision “misapprehended Petitioner’s arguments regarding whether Figure 6 of Lin ’943 disclosed the second torque of” claims 1 and 3, and “rehearing is proper.” Req. Reh’g 2, 3, 4. Specifically, according to Petitioner, the “corrected interpretation of Figure 6” discussed in Section III.A above “will undo this misapprehension [of Petitioner’s argument] and support Petitioner’s argument.” *Id.* at 4.

Petitioner’s Request relies on evidence that was first submitted with Petitioner’s Request, and on evidence that was in the record prior to entry of the Decision. We separately consider these two aspects of the Request.

1. Evidence First Submitted with Petitioner’s Request

a. Factual and Procedural Background

On May 4, 2021, Petitioner’s counsel sent an e-mail communication to the Board, requesting “authorization to file an exhibit with the rehearing request that Petitioner will file on or before May 8, 2021.” Ex. 3001.

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