

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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HUNTING TITAN, INC.,  
Petitioner,

v.

DYNAENERGETICS GMBH & CO. KG,  
Patent Owner.

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Case IPR2018-00600  
Patent 9,581,422 B2

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Before ANDREI IANCU, *Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office*, ANDREW HIRSHFELD, *Commissioner for Patents*, and SCOTT R. BOALICK, *Chief Administrative Patent Judge*.

PER CURIAM.

ORDER

DynaEnergetics GmbH & Co. KG (“Patent Owner”) requests rehearing and Precedential Opinion Panel (“POP”) review of the Patent Trial and Appeal Board (“Board”) Decision denying Patent Owner’s Motion to Amend after finding proposed substitute claims 16–22 unpatentable over the prior art of record. *See* Paper 44; Ex. 3001.

Pursuant to Standard Operating Procedure 2 (“SOP 2”),<sup>1</sup> the POP has determined that this case warrants review. A POP review is appropriate to address the following issues:

1. Under what circumstances and at what time during an *inter partes* review may the Board raise a ground of unpatentability that a petitioner did not advance or insufficiently developed against substitute claims proposed in a motion to amend?
2. If the Board raises such a ground of unpatentability, whether the Board must provide the parties notice and an opportunity to respond to the ground of unpatentability before the Board makes a final determination.

Accordingly, a POP review of the Board’s Decision denying the Motion to Amend is ordered. SOP 2, 3–7.

Hunting Titan, Inc. (“Petitioner”) and Patent Owner are authorized to simultaneously submit additional briefing, limited to the issues above, of no more than fifteen (15) pages each, due on December 20, 2019. The parties are instructed to address in their respective briefs whether an oral hearing is necessary.

Additionally, any *amicus curiae* are authorized to submit a brief to [trials@uspto.gov](mailto:trials@uspto.gov), limited to the issues identified above, of no more than fifteen (15) pages and due on December 20, 2019. The *amicus curiae* briefs will be entered into the record by the Board.

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<sup>1</sup> Available at <https://go.usa.gov/xPMqx>.

Petitioner and Patent Owner are further authorized to file simultaneous responses to Patent Owner's and Petitioner's additional briefing, respectively, of no more than ten (10) pages each, due on January 6, 2020. The parties also may respond to the *amicus curiae* briefing in their responses.

Accordingly, based on the foregoing and pursuant to SOP 2, it is:

ORDERED that the Board's Decision denying Patent Owner's Motion to Amend is submitted for POP review on the issues and schedule identified above; and

FURTHER ORDERED that, unless otherwise delegated, the POP will maintain authority over all issues in this case.

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