

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MILWAUKEE ELECTRIC TOOL CORPORATION,  
TECHTRONIC INDUSTRIES CO. LTD., TECHTRONIC INDUSTRIES  
NORTH AMERICA, INC. and ONE WORLD TECHNOLOGIES, INC.,

Petitioner,

v.

IRWIN INDUSTRIAL TOOL COMPANY,

Patent Owner.

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Case IPR2015-01462  
Patent 8,579,555 B2

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Before JOSIAH C. COCKS, SUSAN L. C. MITCHELL, and  
MICHAEL L. WOODS, *Administrative Patent Judges*.

WOODS, *Administrative Patent Judge*.

DECISION  
Request for Rehearing  
*37 C.F.R. § 42.71(d)*

On December 9, 2015, Milwaukee Electric Tool Corporation et al. (“Petitioner”) filed a Request for Rehearing (Paper 9, “Req. Reh’g”) of our Decision instituting *inter partes* review of claims 1–34 of U.S. Patent No. 8,579,555 B2 (“the ’555 patent”) (Paper 7, “Decision”). Petitioner’s basis for requesting rehearing is its contention that the Board “overlook[ed] the fact that claims 21–30 were included in Ground 2 of the Petition.” Req. Reh’g 2.

Specifically, Petitioner acknowledges that the Petition (Paper 2, “Petition”) included a “typo[graphical error] in the heading [that] might have caused the Board to overlook claims 21–30 in Ground 2 of the Petition.” *Id.* at 2–3; Paper 2, 26 (listing claims 1–5, 14–20, and 32–34 in the heading of Ground 2 of the Petition).

Upon reviewing the record before us, we agree with Petitioner that the typographical error in the Petition caused us to “overlook the fact that claims 21–30 were included in Ground 2 of the Petition.” Req. Reh’g 2. Furthermore, based on our review of Petitioner’s explanations and supporting evidence, we are also persuaded that Petitioner has established a reasonable likelihood of prevailing in its challenge of claims 21–30 under Ground 2, in addition to claims 1–5, 14–20, and 32–34, as obvious over Redford. *See* Paper 2, 4, 26–31; *see also* Paper 7, 19–20 (instituting review of claims 1–5, 14–20, and 32–34 under Ground 2 in the Decision).

Any discussion of facts in this decision is made only for the purposes of institution and is not dispositive of any issue related to any ground on which we institute review. The Board has not made a final determination on the patentability of any challenged claims. The Board’s final determination will be based on the record as fully developed during trial.

ORDER

Accordingly, it is:

ORDERED that Petitioner's Request for Rehearing is *granted*;

FURTHER ORDERED that the Decision instituting trial (Paper 7) is modified so that trial is instituted on the following grounds:

A. Claims 1, 3–5, 14–18, 20–26, 29, 30, 33, and 34 of the '555 patent as anticipated by Redford;

B. Claims 1–5, 14–30, and 32–34 of the '555 patent as obvious over Redford; and

C. Claims 2, 6–13, 31, and 32 of the '555 patent as obvious over Redford and Starbuck; and

FURTHER ORDERED that the trial schedule remains the same as set forth in the Scheduling Order (Paper 8).

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Patent 8,579,555 B2

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