

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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REFLECTIX, INC.,  
Petitioner,

v.

PROMETHEAN INSULATION TECHNOLOGY LLC,  
Patent Owner.

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Cases: IPR2015-00039 (Patent 7,935,410 B2)  
IPR2015-00042 (Patent 7,935,411 B2)  
IPR2015-00044 (Patent 8,327,601 B2)  
IPR2015-00045 (Patent 8,343,614 B2)  
IPR2015-00047 (Patent 8,221,871 B2)

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Before LINDA M. GAUDETTE, CHRISTOPHER L. CRUMBLEY, and  
KRISTINA M. KALAN, *Administrative Patent Judges*.

CRUMBLEY, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes* Review  
35 U.S.C. § 312(a) and 37 C.F.R. § 42.8

IPR2015-00039 (Patent 7,935,410 B2)  
IPR2015-00042 (Patent 7,935,411 B2)  
IPR2015-00044 (Patent 8,327,601 B2)  
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## I. INTRODUCTION

Reflectix, Inc. filed five Petitions seeking *inter partes* review of the following claims of five related patents:

Case	Patent No. <sup>1</sup>	Petition (“Pet.”)	Claims Challenged
IPR2015-00039	7,935,410 B2	Paper 1	1–5, 9, 10, 14
IPR2015-00042	7,935,411 B2	Paper 2	1, 2, 7, 8, 10
IPR2015-00044	8,327,601 B2	Paper 1	1–5, 14, 16, 28, 30–32, 35–37
IPR2015-00045	8,343,614 B2	Paper 2	1, 2, 14–16, 19–21
IPR2015-00047	8,221,871 B2	Paper 1	1, 2, 18–20, 23–25

The owner of the patents, Promethean Insulation Technology LLC, filed Patent Owner Preliminary Responses. Paper 10,<sup>2</sup> “Prelim. Resp.” Pursuant to a request from Reflectix, we authorized further briefing regarding real party in interest, and Reflectix filed a Reply to the Preliminary Response (Paper 12, “Reply”).

The panel determined that further briefing on two issues would be beneficial, and ordered the parties to file cross-briefing limited to these issues. Paper 13. Reflectix filed Additional Briefing (Paper 15) and a Reply

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<sup>1</sup> The challenged patents are included as Ex. 1001 in the record of each case.

<sup>2</sup> Because these five cases present the same dispositive issue, we treat them together. For expediency, we cite to the record in IPR2015-00039. Substantially similar papers may be found in the records of the other four cases.

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(Paper 16), and Promethean also filed Additional Briefing (Paper 14) and a Response (Paper 17).

Pursuant to 35 U.S.C. § 312(a)(2), we may consider a petition for *inter partes* review “only if . . . the petition identifies all real parties in interest.” Upon consideration of the briefing and supporting evidence, we determine that Reflectix’s Petitions do not identify all real parties in interest (“RPIs”). We further determine that Reflectix has not established good cause for late correction of its Petitions, or that such correction would be in the interests of justice. 37 C.F.R. § 42.5(c)(3). Accordingly, we may not consider the Petitions, and cannot institute an *inter partes* review of the challenged claims.

#### *A. Related Proceedings*

Promethean has asserted the challenged patents against Reflectix and its parent company, Sealed Air Corporation (“SAC”), in an action in the U.S. District Court for the Eastern District of Texas, captioned *Promethean Insulation Tech. LLC v. Sealed Air Corp.*, Civil Action No. 2:13-cv-01113. Pet. 1; Paper 6, 1. That action originally included The Home Depot, Inc. and Home Depot U.S.A., Inc. (collectively, “Home Depot”) as additional defendants. Ex. 2005. On May 5, 2014, the parties filed a Stipulation dismissing SAC and The Home Depot, Inc. from the lawsuit. *Id.*

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*B. Factual Background*

While the parties dispute whether SAC and Home Depot are real parties in interest to the present *inter partes* review proceedings, certain undisputed facts have emerged during the course of the parties' briefing regarding the relationship between Reflectix and its parent corporations.<sup>3</sup>

Reflectix is a wholly owned subsidiary of Sealed Air Corporation (US) ("SAC-US"), which in turn is owned by SAC.<sup>4</sup> Reply 2; Ex. 2004, 4. Several individuals are employees and/or corporate officers of Reflectix and either SAC or SAC-US, while other individuals have roles in all three companies. For example, Dale Tokarski, the President of Reflectix, is also an employee of SAC-US. Reply 2. Costs of Mr. Tokarski's employment at SAC-US are charged back to Reflectix. *Id.* at 2 n.1. As an additional example, Norman D. Finch, Jr. is a Director, Vice President, and Secretary of Reflectix; a Director, Vice President, General Counsel, and Secretary of SAC-US; and Secretary and Vice President of SAC. Ex. 4002<sup>5</sup> ¶ 5.

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<sup>3</sup> With minor exceptions, the parties' briefing has not focused on the relationship between Reflectix and Home Depot, nor do we find it necessary to do so. As discussed herein, the relationship between Reflectix and its parent corporations, and their control of the instant Petitions, is dispositive of these proceedings.

<sup>4</sup> In this Decision, we will refer to all three companies collectively as "the Sealed Air corporate family."

<sup>5</sup> Reflectix numbered the Exhibits filed with its Petitions in the 1000 range, the Exhibits filed with its Reply in the 3000 range, and the Exhibits filed with its Additional Briefing in the 4000 range. This is not in compliance

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The companies of the Sealed Air corporate family also share in-house legal counsel. Reflectix submitted the testimony of Daniel B. Ruble, an attorney employed by SAC-US. *Id.* ¶ 1. According to Mr. Ruble, although employed by SAC-US, he “regularly” provides legal services to both its corporate parent SAC and its subsidiary, Reflectix. *Id.* For example, settlement negotiations in the District Court patent infringement action have been attended by attorneys from the firm of Norton Rose Fulbright US LLP, Mr. Tokarski as President of Reflectix, and Mr. Ruble and Ira Lakritz, both attorneys employed by SAC-US. *Id.* ¶¶ 4–5. Mr. Ruble states that he considers such common representation permissible “because these clients are generally aligned in interest.” *Id.* ¶ 1.

#### 1. *Preparation and Filing of the Instant Petitions*

According to Reflectix and its declarants, the preparation of the instant Petitions began in March of 2014. Paper 15, 4; Ex. 4001 (Declaration of Nathan J. Rees, lead counsel for Reflectix) ¶ 2; Ex. 4002 ¶ 7. Preparation of the Petitions was managed by Norton Rose Fulbright

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with the Board’s Rules. 37 C.F.R. § 42.63(c) (“Each party's exhibits must be uniquely numbered sequentially in a range the Board specifies. For the petitioner, the range is 1001–1999, and for the patent owner, the range is 2001–2999.”). While the Board could require Reflectix to re-file its Exhibits with proper numbers, and file corrected Papers referring to these renumbered exhibits, we exercise our discretion not to do so, given the fact that none of the five Petitions are proceeding into trial.

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attorneys, with the assistance of Messrs. Ruble and Lakritz, in-house counsel for SAC-US. Ex. 4001 ¶ 2; Ex 4002 ¶ 2. SAC-US “provided” the services of Messrs. Ruble and Lakritz to Reflectix, and SAC-US also funded the preparation of the instant Petitions. Ex. 4002 ¶¶ 2–3. Mr. Ruble testifies that Reflectix was “willing and eager” to file the Petitions drafted by these attorneys. *Id.* ¶ 11.

Initially, the Petitions were drafted with SAC as Petitioner and sole RPI. Ex. 4001 ¶ 3. Shortly before filing, in approximately September 2014, Norton Rose Fulbright attorneys discussed with the SAC-US attorneys the identification of RPI in the Petitions, and determined that Reflectix should be named as Petitioner and sole RPI. *Id.* ¶ 5. Reflectix states that “the conduct of the parties throughout the present dispute” was considered “particularly determinative” of the RPI inquiry, especially the fact that SAC had been dismissed from the District Court patent infringement action, leaving Reflectix as the only member of the Sealed Air corporate family charged with infringing the patents. Reply 3.

## *2. Powers of Attorney Filed in These Proceedings*

As required by our Rules, Reflectix filed Powers of Attorney along with the Petitions, designating Nathan J. Rees and Wayne S. Livingstone as counsel. 37 C.F.R. § 42.10(b); Paper 2. The Powers of Attorney are signed by Mr. Tokarski as President of Reflectix, however the documents state that “Petitioner *Sealed Air Corporation* hereby appoints [Messrs. Rees and Livingstone] as attorneys to represent the undersigned.” Paper 2 (emphasis

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added). Upon inquiry by the Board,<sup>6</sup> Reflectix represented that the inclusion of SAC on the Powers of Attorney was an “inadvertent clerical error” that arose out of the fact that, as discussed above, SAC was named as Petitioner and sole RPI when the Petitions were initially prepared. Paper 15, 4–5.

Once the determination had been made to name Reflectix as Petitioner, the drafted Powers of Attorney were never updated to reflect the change.

Ex. 4001 ¶ 7.

## II. ANALYSIS OF REAL PARTY IN INTEREST

The America Invents Act (“AIA”) is unequivocal: a petition for *inter partes* review “may be considered *only if*” it identifies all RPIs. 35 U.S.C. § 312(a)(2) (emphasis added). This identification must be made as part of a petitioner’s mandatory notices, required to be filed as a part of the petition. 37 C.F.R. § 42.8(a)(1). The only provision made in our Rules for subsequently updating the identification of RPI is “within 21 days of a change in the information,” i.e., a change in the status of a party as RPI. 37 C.F.R. § 42.8(a)(3). Otherwise, we have held that correcting the identification of RPI listed in a petition results in a loss of the petition’s filing date, with a new filing date assigned as of the date the RPI

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<sup>6</sup> After determining that the Powers of Attorney appear to contain an error, the Board asked the parties to brief “what effect, if any, this has on the Board’s ability to consider the Petitions.” Paper 13, 2. Because we determine Reflectix’s failure to name all RPIs prevents us from considering the Petitions, we need not reach this issue.

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identification is corrected. *See Askeladden LLC v. McGhie*, Case IPR2015-00122, slip op. at 15 (PTAB Mar. 6, 2015) (Paper 30). In cases where the newly-assigned filing date would be outside the one-year period for filing a petition defined in 35 U.S.C. § 315(b), we have found failure to identify all RPIs results in denial of the petition. *See ZOLL Lifecor Corp. v. Philips Elec. North America Corp.*, Case IPR2013-00609, slip op. at 16–17 (PTAB Mar. 20, 2014) (Paper 15).

“The Board relies on petitioner’s identification of the RPI to determine conflicts of interest for the Office, the credibility of evidence presented in a proceeding, and standing of a party that previously has filed a civil action involving a patent for which an [*inter partes* review] is requested.” *GEA Process Eng’g. Inc. v. Steuben Foods, Inc.*, Case IPR2014-00041, slip op. at 24 (PTAB Feb. 11, 2015) (Paper 140). We have held that determination of whether a Petition identifies all RPIs is a “threshold issue,” on which Petitioner bears the burden of persuasion. *See Atlanta Gas Light Co. v. Bennett Regulator Guards, Inc.*, Case IPR2013-00453, slip op. at 7–8 (PTAB Jan. 6, 2015) (Paper 88).

Our Practice Guide explains that an RPI, as used in the AIA trial context, “is the party that desires review of the patent. Thus, the ‘real party-in-interest’ may be the petitioner itself, and/or it may be the party or parties at whose behest the petition has been filed.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,759 (Aug. 14, 2012). The determination of whether a party is an RPI is a “highly fact-dependent question” (*id.*), in



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which the focus is on the party's relationship to the *inter partes* review pending before the Board, and the degree of control the party can exert over the proceeding. *See Aruze Gaming Macau, Ltd. v. MGT Gaming, Inc.*, Case IPR2014-01288, slip op. at 11 (PTAB Feb. 20, 2015) (Paper 13).

While *per se* rules are inappropriate in the RPI context due to its highly fact-dependent nature, prior decisions of the Board are instructive as examples of situations in which a party should be considered an RPI. For example, when a petitioner is, "at most, a 'nominal plaintiff' with 'no substantial interest' in [the *inter partes* review] apart from those of its client," the Board has considered the client to be an RPI. *See RPX Corp. v. VirnetX Inc.*, Case IPR2014-00171, slip op. at 9 (PTAB July 14, 2014) (Paper 57). We have also found a nonparty that paid the petitioner's legal fees for conduct of the *inter partes* review to be an RPI. *GEA Process Eng'g*, Paper 140, slip op. at 21. In other situations, the Board has found that the relationship between a nonparty parent corporation and the subsidiary petitioner blurred the lines of corporate separation such that the parent could control conduct of the *inter partes* review, thus making the parent an RPI. *ZOLL Lifecor Corp. v. Philips Elec. N. Am. Corp.*, Case IPR2013-00606, slip op. at 8–11 (PTAB Mar. 20, 2014) (Paper 13); *see Zerto, Inc. v. EMC Corp.*, Case IPR2014-01254, slip op. at 10–14 (PTAB Feb. 12, 2015) (Paper 32).

In each of these cases, central to the Board's determination was that a party other than the named petitioner was controlling, or capable of

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controlling, the proceeding before the Board. While complete control is not required, “if a nonparty can influence a petitioner’s actions in a proceeding before the Board, to the degree that would be expected from a formal copetitioner, that nonparty should be considered an RPI to the proceeding.” *Aruze Gaming Macau*, Paper 13, slip op. at 12.

*A. Sealed Air Corporation (US) is a Real Party in Interest*

The undisputed record establishes that SAC-US is an RPI to these proceedings, and thus, should have been identified by Reflectix in the Petitions. The totality of the facts before us supports this conclusion, but the following facts stand out: the payment of legal fees and provision of legal support for preparation of the instant Petitions by SAC-US to Reflectix; and the blurring of the lines of corporate separation between the companies.

As discussed above, Mr. Ruble admits that SAC-US “funded the preparation of” the instant Petitions. Ex. 4002 ¶ 3. This reasonably can be interpreted to mean that the entirety of the legal fees billed by Norton Rose Fulbright, as well as the Office’s filing fees, were paid by SAC-US. The Board has concluded previously that “entirely funding the proceedings” gives the funding party the opportunity to control those proceedings. *See GEA Process Eng’g*, Paper 140, slip op. at 21.

Furthermore, not only did SAC-US fund the preparation of the instant Petitions, it provided two attorneys to represent Reflectix and assist outside counsel in preparing the Petitions. The record does not reflect that any officer or employee of Reflectix had input into the content of the Petitions.

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Indeed, for seven months, the Petitions were prepared—and, presumably, the legal strategy, including the asserted grounds of unpatentability, developed—with SAC as the intended Petitioner. The only reasonable conclusion from these facts is that SAC-US maintained substantial control over the content of the Petitions through the involvement of its in-house counsel and its payment of legal fees.

The fact that SAC-US employees “regularly” provide legal services to Reflectix, and consider the clients “generally aligned in interest” (*see* Ex. 4002 ¶ 1), also supports the conclusion that the lines of corporate separation between SAC-US and Reflectix are not maintained exactly. Furthermore, all but two corporate officers of Reflectix have high-ranking (Vice President or higher) positions within SAC-US and/or SAC. *Id.* ¶ 5. The President of Reflectix, Mr. Tokarski, is an employee of SAC-US. Reply 2 n.1. While this arrangement may be, in the words of Mr. Ruble, “primarily for employee benefits reasons” (Ex. 4002 ¶ 6), it is telling that Mr. Tokarski—acting as President of Reflectix—**signed, without noticing, Powers of Attorney appointing outside counsel to represent “Sealed Air Corporation.”**

When the intertwined nature of two corporations demonstrates that “it is difficult for both insiders and outsiders to determine precisely where one ends and the other begins, there exists an actual measure of control or opportunity to control.” *Zerto*, Paper 32, slip op. at 10. Even if it were not clear from the preparation and funding of the Petitions that SAC-US has

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substantial control over these proceedings, the blurring of the boundary between the corporations gives SAC-US the clear opportunity to control them.

Reflectix argues that its determination that it is the sole RPI to these proceedings was correct, because prior to the filing of the Petitions, Promethean agreed to a stipulated dismissal of SAC from the District Court patent litigation. Reply 5. Reflectix also points out that a subsequent complaint on a related Promethean patent named only Reflectix as a defendant. *Id.* These arguments, however, are unavailing, primarily because they focus on the conduct of the District Court action and the relationship between Reflectix and SAC-US as parties, not the relationship of Reflectix and SAC-US to the present proceedings.

“RPI is the relationship between a party and a *proceeding*; RPI does not describe the relationship between *parties*.” *Aruze Gaming Macau*, Paper 13, slip op. at 11. The proper RPI analysis, therefore, focuses on the relationship of SAC-US to *these proceedings*, and the degree to which SAC-US exercised, or could have exercised, control over the Petitions. *Id.* at 16. As such, the fact that SAC-US was dismissed from the District Court infringement action, and was not named as a defendant in a subsequent action, is of no moment.

We determine that SAC-US is an RPI to these *inter partes* review proceedings, and should have been identified in the Petitions. Unless the

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Petitions can be corrected to include SAC-US, we cannot consider them.  
35 U.S.C. § 312(a).

*B. Reflectix Cannot Correct its RPI Identification Without Losing its Filing Date*

Reflectix argues that, even if it was incorrect in its determination that SAC-US is not an RPI, its error was in good faith and, therefore, good cause exists to permit correction of the RPI identification without altering the filing date of the Petitions. Reply 5–7. As noted above, although petitioners are required to include mandatory notices identifying all RPIs when the petition is filed, our Rules permit late action to be “excused on a showing of good cause or upon a Board decision that consideration on the merits would be in the interests of justice.” 37 C.F.R. § 42.5(c)(3). Reflectix argues that the requirement that a petition name all RPIs to receive a filing date is regulatory, not statutory, and as such may be waived by the Board. Reply 6 (citing 37 C.F.R. §§ 42.106, 42.5(b)).

Promethean disputes that the requirement of RPI identification is waivable, arguing that correction to RPI identification is not permitted in any circumstances without loss of the petition’s filing date. Paper 14, 12 n.10 (citing *Petroleum Geo-Services, Inc. v. WesternGeco, LLC*, Case IPR2014-00678, slip op. at 6 (PTAB Aug. 12, 2014) (Paper 23)). **We need not determine whether Promethean is correct, or whether in some cases, good cause can excuse a late identification of all RPIs. Reflectix has not established that any such good cause exists in this case.**

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First, we note that Reflectix’s incorrect determination of RPI did not arise out of some mistake of fact; rather, the briefing shows that Reflectix misunderstood the law as it applies to the RPI determination. Even as late as March of this year, Reflectix argued in its Additional Briefing that our “Trial Practice Guide is not clear on the *amount of control* that is necessary to cause a party to *rise* from the level of privity to the level of a[n] RPI.” Paper 15, 10 (emphasis added). This statement evinces several fundamental misunderstandings of the distinction between RPIs and privies: the concepts do not differ based on the “amount of control;” a party does not “rise” from a privity to an RPI; and the fact that a party is an RPI to a proceeding does not rule out the possibility that they are also in privity with a party. *See Aruze Gaming Macau*, Paper 13, slip op. at 13 (“[i]n contrast to the RPI inquiry, which focuses on a party’s relationship to a *proceeding*, the privity inquiry focuses on the relationship between *parties*”) (citing *Int’l Nutrition Co. v. Horphag Research, Ltd.*, 220 F.3d 1325, 1329 (Fed. Cir. 2000)).

Nor is it an excuse that, as Reflectix alleges, the Board’s law of RPI is “developing and there is little guidance in the form of precedential (or even ‘informative’) opinions from the PTAB in this area” or that our Trial Practice Guide allegedly “provides little guidance in distinguishing what actions cause a party to be a privity versus what causes the party to be a[n] RPI.” Paper 15, 5, 8. We disagree that the Trial Practice Guide provides little guidance, as it devotes over a page of the Federal Register to discussing RPI and privity, and cites to precedent including the Supreme Court decision

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in *Taylor v. Sturgell*. See 77 Fed. Reg. at 48,759 (citing 553 U.S. 880 (2008)). In any event, even if our precedent is “developing,” several Board decisions concerning RPI issued while Reflectix still had the opportunity to correct its Petition without encountering a 35 U.S.C. § 315(b) statutory bar,<sup>7</sup> and which should have given Reflectix cause to re-evaluate its RPI designation. See, e.g., *ZOLL Lifecor*, IPR2013-00609, Paper 13 (entered Mar. 20, 2014); *RPX*, Paper 49 (entered June 5, 2014). Reflectix never asked to correct its RPI identification, however, until Promethean raised the issue.

Reflectix also argues that, as the RPI inquiry is a fact-intensive one upon which “reasonable persons, acting in good faith, may disagree,” then its incorrect determination regarding SAC-US should be excused. Paper 15, 10. While this argument may have merit in situations where the RPI question is a close one, that is not the case before us. Reflectix’s incorrect RPI determination was not objectively reasonable, and cannot support good cause justifying late action. As discussed above, the facts overwhelmingly lead to the determination that SAC-US is an RPI that should have been named in the Petitions.

Second, Reflectix asks us to excuse its incorrect RPI identification because there would have been no 35 U.S.C. § 315(b) statutory bar against

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<sup>7</sup> Reflectix admits that the earliest date it was served with a complaint alleging patent infringement was January 10, 2014 (Reply, 2); therefore, it could have corrected its RPI identifications without encountering a § 315(b) bar until January 10, 2015.

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SAC-US when the Petitions were filed. *Id.* at 4. Furthermore, Reflectix concedes that SAC-US is a privy of Reflectix, and thus would be barred from filing successive petitions under 35 U.S.C. § 315(e). *Id.* at 6. Reflectix argues, therefore, that it gained nothing by omitting the identification of SAC-US from its Petitions. *Id.*

While we recognize the absence of a statutory bar when the Petitions were filed, the statutory bars of 35 U.S.C. § 315 are not the only reasons RPI identification is required; the identification is also necessary so that the Board can avoid conflicts of interest and assess the credibility of evidence presented in a proceeding. *See GEA Process Eng'g.*, Paper 140, slip op. at 24. We also note that the admission of privity between Reflectix and SAC-US was not made until after Promethean had raised the RPI question in its Preliminary Response. Reply 4. There is, therefore, no way to know whether a 35 U.S.C. § 315(e) bar on subsequent petitions would have been conceded if Promethean had never raised the issue. **In any event, while these facts may tend to show the absence of bad faith on the part of Reflectix, they do not show that its incorrect RPI identification was objectively reasonable.**

Third, Reflectix argues that it “has addressed the RPI issue in the most forthcoming manner possible,” in contrast to cases such as *GEA Process Engineering* where the Petitioner resisted discovery on RPI issues. Paper 15, 11. While we commend Reflectix for its candor in these proceedings, we note that a duty of candor and good faith is required of all participants in



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*inter partes* reviews. 37 C.F.R. § 42.11. Furthermore, Reflectix's good faith in addressing RPI once the issue was raised by Promethean does not bear on whether the original failure to name all RPI was reasonable and, therefore, excusable.

Finally, Reflectix contends that permitting correction of RPI without affecting its filing date would be in the interests of justice. Reflectix notes that, while a petitioner who fails to identify all RPIs may lose its only chance to challenge a patent's validity, no sanction of equal measure is invoked against a patent owner who fails to name all RPIs. Paper 15, 14; Reply 7. We find this argument unpersuasive, as it assumes that Congress did not intend such a result. The AIA contains a direct sanction against petitions that do not identify all RPIs, stating unambiguously that the petitions may not be "considered." 35 U.S.C. § 312(a)(2). If it is inequitable that no similar sanction is provided for patent owners, that is an issue for Congress, not the Board, to remedy.

Reflectix also notes that, under Federal Rule of Civil Procedure 17(a)(3), an action in District Court may not be terminated for failure to include an RPI until there is a chance to ratify, join, or substitute in that RPI. Paper 15, 15. This does not mean, however, that the interests of justice require the same accommodation in an *inter partes* review. The Board has not adopted the Federal Rules of Civil Procedure, and there is no reason to believe that Congress intended to provide a rule with the flexibility of FRCP

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IPR2015-00042 (Patent 7,935,411 B2)  
IPR2015-00044 (Patent 8,327,601 B2)  
IPR2015-00045 (Patent 8,343,614 B2)  
IPR2015-00047 (Patent 8,221,871 B2)

17(a)(3) when it enacted the unambiguous and strict provisions of 35 U.S.C. § 312(a).

For the foregoing reasons, we determine that even if the AIA and our Rules permit a petitioner to correct its identification of RPIs without affecting the petition's filing date, we would not permit such correction here.

Reflectix has not provided a sufficient showing of good cause or otherwise convinced us that it would be in the interests of justice to allow correction of the RPIs identified in its Petition without loss of the original filing date.

### III. CONCLUSION

The instant Petitions fail to identify all RPIs and, thus, cannot be considered under 35 U.S.C. § 312(a). Correction of the RPI identification with a change in filing date would be futile, as the Petitions would be barred under 35 U.S.C. § 315(b).

### IV. ORDER

It is hereby ORDERED that the Petitions (IPR2015-00039, Paper 1; IPR2015-00042, Paper 2; IPR2015-00044, Paper 1; IPR2015-00045, Paper 2; IPR2015-00047, Paper 1) are *denied*, and no trial is instituted.

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IPR2015-00042 (Patent 7,935,411 B2)  
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