

## **Regarding Hitachi Metals' Patents & its Patent License of Sintered NdFeB Magnets**

We, Hitachi Metals, Ltd. ("Hitachi Metals"), are concerned that certain Chinese sintered NdFeB magnet manufacturers have recently attempted to mislead the public, particularly the people related to the sintered NdFeB business, about the current status of our patents and patent license of sintered NdFeB magnets by sending out false information via the Chinese media. In order to (i) dispel negative impact the wrong information has brought to us and our stakeholders (i.e., our licensees and customers) and (ii) protect all of our legal rights and interests and theirs, we therefore wish to hereby clarify the current status of our patents and patent license following the highly misleading statements made by specific Chinese manufacturers in the industry.

### **I. Statement on the status of Hitachi Metals' patents**

For many years, we have devoted ourselves to the research and development and manufacture of sintered NdFeB magnets. We have invested substantial capital, research and development, and management resources into those activities. Hitachi Metals owns more than six hundred (600) valid patents directly associated with sintered NdFeB magnets. These patents comprise both component and process patents spanning the entire manufacturing process for our magnet products. Those patents are the core to Hitachi Metals' competitiveness in the sintered NdFeB magnet industry.

Lately, we have become aware that seven (7) members of the Alliance of Rare-Earth Permanent Magnet Industry (the "Alliance") reported that they had filed a petition at the U.S. Patent and Trademark Office (the "USPTO") for invalidation of certain two (2) patents of Hitachi Metals' sintered NdFeB patents, and further emphasized that the USPTO invalidated both patents. This is simply not true, mislead people as if the USPTO made such a final ruling thereon and unreasonably undermine Hitachi Metals' and its stakeholders' legal rights and interests.

In fact, the two (2) patents at issue are still valid because the USPTO's reviews were *not* final, but only preliminary assessments. The assessment was made accordingly before Hitachi Metals filed its rebuttal and counter statement. Additionally, the USPTO's examination only included review of the partial claims instead of all claims.

We continue to vigorously defend the validity of our patents. We have filed our own counter statement and evidence before the USPTO. Right now, the USPTO is still reviewing the matter.

The USPTO will not make its final decision on the above issues until 2016 at the earliest. The USPTO precedent indicates that its final rulings regularly overrule the USPTO's preliminary assessments.

Even if the USPTO's final decisions on the above cases do eventually align with its preliminary assessments, any rulings of partial invalidity will not determine the overall validity of the complete patents, nor will it affect the validity of the six hundred (600) or more other patents. Actually, the USPTO has already affirmed the validity of one component patent challenged in its *ex parte* reexamination. Hitachi Metals will fairly and on a case by case basis try to protect not only its own rights and interests but also those of its licensees and customers.

Moreover, the Alliance falsely alleged that Hitachi Metals had supposedly admitted that its patents are not essential in manufacturing sintered NdFeB magnets and it exaggerates the essential nature of its patents for propaganda purposes only. This is flatly untrue and groundless. We are certain that our patents play a significant role in the safe and efficient commercial production of high quality sintered NdFeB magnets.

## **II. Statement on Hitachi Metals' patent license of sintered NdFeB magnets**

Four (4) members of the Alliance filed a lawsuit to Ningbo Intermediate Court. Together, they are claiming that Hitachi Metals' refusal to grant them a license to use its patents constitutes an abuse of Hitachi Metals' dominant market position and violates the Anti-Monopoly Law of the People's Republic of China.

However, we, as the patent owner, have the legitimate right to select a licensee and to decide whether to grant a patent license or not. Any decision on those matters constitutes the proper exercise of our patent rights as the patent holder. The fact that the four (4) members are not licensees of Hitachi Metals' patents does not mean that Hitachi Metals has done anything except normally exercise its patent rights in accordance with the law.

Hitachi Metals deals with all potential licensees seeking a patent license, in a *bona fide* and good faith manner. Hitachi Metals evaluates potential licensees through good faith negotiations with them in terms of production scale, profitability and technological prowess and, at present, grants twelve (12) licensees a license to use Hitachi Metals' patents in manufacturing and selling sintered NdFeB magnets, including eight (8) Chinese companies. The production capacity of sintered NdFeB magnets of all relevant manufacturers, including the twelve (12) licensees, satisfies and exceeds the entire market demand of the products.

In addition, while the Alliance (including the four (4) members) had repeatedly asserted in past exhibitions that all of the member companies have their own

original production process and technology that do not infringe any of Hitachi Metals' patents, the four (4) members claim in the lawsuit at Ningbo Intermediate Court that Hitachi Metals' patents relating to the NdFeB magnets are standard essential patents for the manufacture and sales of the products as if nobody was able to manufacture and sell the products without any license of Hitachi Metals' patents. There is a contradiction between the two (2) assertions. Hitachi Metals will continue to assert its own arguments against the Alliance's unfounded accusations in the Ningbo Intermediate Court so that Hitachi Metals' and its stakeholders' legal rights and interests remain secured and well protected.

As mentioned above, certain information regarding Hitachi Metals' patents and patent license the Alliance published is inconsistent with the actual facts. Hitachi Metals will continue to protect Hitachi Metals' and its stakeholders' legitimate interests by properly arguing its own views and positions.

Lastly, Hitachi Metals hereby represents that: Hitachi Metals has devoted itself to the research and development of sintered NdFeB magnets for a long time, and we take great pride in our efforts and contributions towards the stable, orderly and sustainable development of the sintered NdFeB magnet industry; Hitachi Metals respects and obeys China's Patent Law and Anti-Monopoly Law at all times; Hitachi Metals seeks a fair resolution to all disputes with the Alliance regarding our intellectual properties which benefit and serve all of the parties involved with sintered NdFeB magnet business.

Hitachi Metals, Ltd.  
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