

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SPORTS NUTRITION RESEARCH, LTD.,
Petitioner Application No. 13/907,090,

v.

CHEMI NUTRA,
Respondent Application No. 13/901,423.

Case DER2015-00003

Before JAMESON LEE, SALLY C. MEDLEY, and
JAMES T. MOORE, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*.

DECISION
Dismissal Prior to Institution of Trial
35 U.S.C. § 135

On August 24, 2020, a conference call was held. The participants were respective counsel for the parties, Judge Jameson Lee, Judge Sally Medley, and Judge James T. Moore. The subject matter discussed is whether Petitioner intends to pursue this Petition further in light of the Decision in related derivation proceeding DER2013-00001, dated October 11, 2019, and the Rehearing Decision in DER2013-00001, dated April 3, 2020. DER2013-00001, Papers, 20, 24.

Counsel for Petitioner requested dismissal of its Petition, given that (1) all of its involved application claims in Application 13/907,090 are no longer patentable and all remaining claims are directed to patentably distinct subject matter; (2) all of Respondent's claims in Application 13/901,423 have been rejected over prior art; and (3) Respondent has abandoned Application 13/901,423. Counsel for Respondent expressed that Respondent does not oppose the requested dismissal of the Petition. Counsel for Respondent also did not dispute any of the three underlying facts, as alleged by Petitioner and as noted above.¹

ORDER

It is

ORDERED that Petitioner's request for dismissal is treated as a Motion to Dismiss the Petition, and the Motion to Dismiss the Petition is *granted*;

FURTHER ORDERED that the Petition is *dismissed*; and

FURTHER ORDERED that this proceeding is terminated.

¹ The Examiner has not yet issued a Notice of Abandonment in Respondent's Application 13/901,423.

DER2015-00003

Petitioner Application No. 13/907,090

Respondent Application No. 13/901,423

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