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Paper 21
Entered: June 12, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JON R. RASMUSSEN and BRANDON J. FAIR
Application 17/846,932,
Petitioner,

v.

NICHOLAS KLEINSCHMIT and AARON HOLMBERG
Application 17/522,731,
Respondent.

DER2023-00012

Before JAMESON LEE, RAE LYNN P. GUEST, and CHARLES J. BOUDREAU, *Administrative Patent Judges.*

LEE, *Administrative Patent Judge.*

ORDER
Conduct of Proceeding
37 C.F.R. § 42.5(a)

On May 11, 2023, Petitioner filed a petition to institute a derivation proceeding against Respondent's Application 17/522,731. Paper 3. On April 10, 2025, we issued an Order taking exclusive jurisdiction over Petitioner's and Respondent's involved applications to determine if a trial for derivation of invention should be instituted and to conduct such a trial, if appropriate. Paper 15. In that Order, we authorized each party to file a paper listing and reproducing all of its application claims at the time of filing of the initial derivation petition on May 11, 2023, and also all of its application claims at the time of the date of entry of the Order. *Id.* Both parties filed the listing and reproduction of claims. Papers 17, 18.

Our April 10, 2025 Order (Paper 15) did not authorize the filing of any other paper by either party. Yet, on May 19, 2025, Petitioner filed a paper titled "Petitioner's Response to Board Order of April 10, 2025." Paper 19. The filing is substantive, as it compares the parties' claims and argues whether Petitioner even needs to have claims, argues invalidity of 37 C.F.R. § 42.405(a)(2), and presents a new theory on why Petitioner is entitled to judgment as a matter of law.

It is

ORDERED that Petitioner's "Response to Board Order of April 10, 2025" (Paper 19) is expunged, because its filing was unauthorized. *See* 37 C.F.R. § 42.20(b).

DER2023-00012
Petitioner Application 17/846,932
Respondent Application 17/522,731

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