

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

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

Case 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)

I. Introduction

On July 24, 2025, we granted Petitioner's Motion for a Limited Remand. Paper 25. The period of remand was stated as six months, potentially extendable upon motion by either party. *Id.* at 1. We also ordered that both parties shall file a status report every three months of all actions taken in Respondent's involved application and Petitioner's involved application. *Id.* at 2. Neither party has yet filed any status report. The purpose of the remand was to provide an opportunity to assert ownership of respondent's involved application by Petitioner's inventors.

II. Discussion

Repeated failure to file a status report as ordered by the Board undermines the Board's management of this proceeding and may be sanctionable.

III. Order

It is

ORDERED that Petitioner shall, immediately upon receipt of this communication, file a status report as ordered in Paper 25, with regard to all actions taken by Petitioner in the Patent and Trademark Office regarding Respondent's involved application and regarding Petitioner's involved application since July 24, 2025, and all responses with respect thereto;

FURTHER ORDERED that Respondent shall, immediately upon receipt of this communication, file a status report as ordered in Paper 25, with regard to all actions taken by Respondent in the Patent and Trademark Office regarding Respondent's involved application and regarding Petitioner's involved application since July 24, 2025, and all responses with respect thereto;

FURTHER ORDERED that both parties shall, within the status report it files, indicate a course of action it prefers at this stage, e.g., extending the remand

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period to permit further efforts to resolve the ownership issue before the Office, or initiating the derivation proceeding but precluding Petitioner from arguing ownership of Respondent's involved application and from relying on the state court's decision regarding ownership of any technology stemming from Petitioner's inventors;

FURTHER ORDERED that either party may make a request, within the status report, for authorization to file a motion to seek the course of action it prefers, given the actions taken thus far by Petitioner to assert ownership of Respondent's involved application; and

FURTHER ORDERED that if Petitioner still files no status report, we may resume jurisdiction over the involved applications, and consider the Petition but exclude consideration of any argument by Petitioner that its inventors own Respondent's involved application and any reliance by Petitioner on the state court's decision and judgment to the extent it relates to ownership of technology.

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For Petitioner:

Peter L. Brewer
Bernard Klosowski
Alexander J. Gambino
THRIVE IP
pbrewer@thrive-ip.com
ben@thrive-ip.com
alex.gambino@thrive-ip.com

For Respondent:

Scot M. Ringenberg
SUITER SWANTZ IP
smr@suiter.com