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Paper 46
Date: September 12, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SEALED AIR CORPORATION,
Petitioner,

v.

PREGIS INNOVATIVE PACKAGING, INC.,
Patent Owner.

Cases: IPR2013-00554 (Patent No. RE38,745)
IPR2013-00555 (Patent No. RE38,745)
IPR2013-00556 (Patent No. 6,607,803)
IPR2013-00557 (Patent No. 7,047,705)
IPR2013-00558 (Patent No. 7,047,705)

Before MICHAEL J. FITZPATRICK, CHRISTOPHER L. CRUMBLEY, JON B. TORNQUIST, and JENNIFER M. MEYER, *Administrative Patent Judges.*

CRUMBLEY, *Administrative Patent Judge*.

JUDGMENT
Termination of the Proceeding
37 C.F.R. § 42.72

On September 11, 2014, pursuant to Board authorization, Petitioner Sealed Air Corporation ("Sealed Air") and Patent Owner Pregis Innovative Packaging, Inc. ("Pregis"), filed joint motions to terminate these five related *inter partes*

reviews. Paper 45.[1] With the joint motions, the parties filed copies of their written settlement agreement covering various matters involving the patents at issue in these proceedings. Ex. 1019. The parties concurrently filed joint requests to have the settlement agreement treated as confidential business information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 46.

Under 35 U.S.C. § 317(a), "[a]n inter partes review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed." In these proceedings, the Board instituted trial on March 6, 2014 (Paper 13), but has not yet reached a decision on the merits with respect to the patentability of any involved claim. Accordingly, the requirement for terminating the reviews with respect to Sealed Air, as Petitioner, is met.

Also under 35 U.S.C. § 317(a), "[i]f no petitioner remains in the inter partes review, the Office may terminate the review or proceed to a final written decision under section 318(a)." Sealed Air is the sole Petitioner. The Board, therefore, has discretion to terminate these reviews with respect to Pregis. In their joint motions, the parties contend that the trials are at a "sufficiently early stage," as Sealed Air has not yet filed its Replies to Pregis' Patent Owner Responses, and no motions are outstanding at this time. Paper 45, 2-3. The parties also note that they have agreed to dismiss the co-pending district court action *Pregis Innovative Packaging, Inc. v. Sealed Air Corporation* (D. Del. Civil Action No. 13-1084-LPS), involving the patents and parties before us here. *Id*.

[1] Unless otherwise noted, citations are to the record of IPR2013-00554; similar papers may be found in the records of the other related proceedings.

Based on the present record, we determine that it is appropriate to terminate these *inter partes* reviews both as to Sealed Air and Pregis without rendering a final written decision. *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72.

In light of the foregoing, it is

ORDERED that the parties' joint requests to have their settlement agreement (IPR2013-00554, Ex. 1019; IPR2013-00555, Ex. 1019; IPR2013-00556, Ex. 1020; IPR2013-00557, Ex. 1019; IPR2013-00558, Ex. 1012) treated as business confidential information, to be kept separate from the patent file, are *granted*;

FURTHER ORDERED that the joint motions to terminate these proceedings are *granted*; and

FURTHER ORDERED that these *inter partes* reviews are hereby *terminated*.

IPR2013-00554 (Patent RE38,745)
IPR2013-00555 (Patent RE38,745)
IPR2013-00556 (Patent 6,607,803)
IPR2013-00557 (Patent 7,047,705)
IPR2013-00558 (Patent 7,047,705)

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