

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUPERIOR COMMUNICATIONS, INC.
Petitioner

v.

SPECULATIVE PRODUCT DESIGN, LLC
Patent Owner

Case IPR2014-00146
Patent 8,204,561

Before LORA M. GREEN, BENJAMIN D. M. WOOD, and ADAM V. FLOYD,
Administrative Patent Judges.

GREEN, *Administrative Patent Judge.*

JUDGMENT
Termination of the Proceeding
37 C.F.R. § 42.73

Petitioner filed a Petition for *inter partes* review of claims 1-16 of U.S. Patent No. 8,204,561 (“the 561 patent”) on November 12, 2013. Paper 4. Patent Owner filed a Preliminary Response on February 12, 2014. Paper 12.

In a conference call held on April 9, 2014, Petitioner requested authorization to file a motion to terminate under 37 C.F.R. § 42.73(b)(4). Patent Owner did not oppose. The panel granted Petitioner authorization to file the motion, and Petitioner filed the motion to terminate the same day. Paper 14.

Petitioner’s request to terminate the proceeding under 37 C.F.R. § 42.73(b)(4) is treated as a statement that it is abandoning the contest, and is thus requesting adverse judgment against itself.¹ This case is in the preliminary proceeding² stage; no institution of a trial has been made. Based on the facts of this case, it is appropriate to enter judgment, and the proceeding is terminated.³

¹ We note that Petitioner states that the Board made reference to estoppel under 35 U.S.C. § 315(b). Paper 14. In fact, we cautioned Petitioner that if it requested adverse judgment against itself in this proceeding, any additional petition for *inter partes* review of the ’561 patent may be denied. See 35 U.S.C. § 325(d) (“In determining whether to institute or order a proceeding under this chapter, chapter 30, or chapter 31, the Director may take into account whether, and reject the petition or request because, the same or substantially the same prior art or arguments previously were presented to the Office.”).

² A preliminary proceeding begins with the filing of a petition for instituting a trial and ends with a written decision as to whether trial will be instituted. 37 C.F.R. § 42.2.

³ A judgment means a final written decision by the Board, or a termination of a proceeding. *Id.*

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Accordingly, it is
ORDERED, that judgment is entered against Petitioner; and
FURTHER ORDERED, that the proceeding is TERMINATED.

PETITIONER:

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