

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ERICSSON INC. AND TELEFONAKTIEBOLAGET LM ERICSSON,
Petitioner,

v.

ADAPTIX, INC.,
Patent Owner.

Case IPR2016-00619
Patent 8,934,445 B2

Before JAMESON LEE, THOMAS L. GIANNETTI, and HUNG H. BUI,
Administrative Patent Judges

BUI, *Administrative Patent Judge*.

DECISION

Granting Unopposed Motion to Dismiss Petition
37 C.F.R. §§ 42.5(a) & 42.71(a)

On April 13, 2016, the Board authorized Petitioner to file an unopposed motion to dismiss the Petition subject to a representation that Petitioner should not be able to refile another petition against U.S. Patent No. 8,934,445 B2. Paper 6. The Board acknowledged that at this stage of the proceeding, no trial has been instituted. *Id.*

On April 18, 2016, Petitioner filed an unopposed motion to dismiss its Petition for *inter partes* review and terminate the proceeding prior to a determination as to whether to institute trial in this case. Paper 7 (“Mot.”). Patent Owner does not oppose the motion to dismiss or otherwise object to Petitioner moving to dismiss the Petition and terminate the proceeding. Mot. 1.

Petitioner submits that dismissal is appropriate because the proceeding is in its preliminary phase, no preliminary response has been filed and the Board “has yet to reach the merits and issue a decision on institution.” *Id.* According to Petitioner, the dismissal “will preserve the Board’s resources and the parties’ resources while also epitomizing the Patent Office’s policy of ‘secur[ing] the just, speed, and inexpensive resolution’ to the above-captioned IPR. *See* 37 C.F.R. § 42.1(b).” *Id.* at 2. Petitioner also “represents to the Board that it will not file any subsequent IPR on the same patent addressed in the present petition.” *Id.* Petitioner further explains that “all parties here agree that Patent Owner will not be prejudiced by the dismissal.” *Id.*

As recognized by Petitioner, the proceeding is still in its “preliminary proceeding” stage.¹ Patent Owner has yet to file a Patent Owner Preliminary Response. The Board has yet to decide whether to institute a trial. We note that the rules do not expressly preclude termination of an *inter partes* review during the “preliminary proceeding” stage. Nonetheless, the rules expressly provide that the Board “may take up petitions or motions for decisions in any order, may grant, deny, or dismiss any petition or motion, and may enter any appropriate order.” 37 C.F.R. § 42.71(a).

Based on the record before us, we exercise our discretion and dismiss the Petition under 37 C.F.R. §§ 42.5 and 42.71(a), at this early juncture, to promote efficiency and minimize unnecessary costs.

ORDER

Accordingly, it is:

ORDERED that Petitioner’s unopposed motion to dismiss its Petition and terminate *inter partes* review is *granted*; and

FURTHER ORDERED that the Petition is *dismissed* under 37 C.F.R. § 42.71(a), and this proceeding is *terminated*.

¹ “Preliminary proceeding” is defined as the period from the filing of a petition for instituting a trial to the written decision as to whether a trial will be instituted. See 37 C.F.R. § 42.2.

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