

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CELANESE INTERNATIONAL CORPORATION,
Petitioner,

v.

DAICEL CORPORATION,
Patent Owner.

Case IPR2019-00313
Patent 9,776,941 B2

Before SHERIDAN K. SNEDDEN, ZHENYU YANG, and
TINA E. HULSE, *Administrative Patent Judges*.

YANG, *Administrative Patent Judge*.

DECISION

Granting Petitioner's Unopposed Motion
to Terminate Proceeding without Prejudice
37 C.F.R. § 42.5(a); 42.72

Pursuant to our authorization, Petitioner filed an unopposed Motion to Terminate Proceeding without Prejudice. Paper 10 (“Mot.”). Petitioner represents that Patent Owner does not oppose this Motion. *Id.*; *see also* Ex. 1042, 6:4–8 (Patent Owner confirming during the April 3, 2019 conference that it does not oppose this Motion).

Under 37 C.F.R. § 42.72, “[t]he Board may terminate a trial without rendering a final written decision, where appropriate.” Petitioner filed the Petition, challenging U.S. Patent No. 9,776,941 (“’941 Patent”), on November 12, 2018, and Patent Owner filed its Preliminary Response on March 5, 2019. Petitioner states that

After reviewing Patent Owner’s characterization of its invention and the scope of the claims in its Preliminary Response and in light of the prosecution history created thereby, which is now sufficiently clear, Petitioner no longer believes its current challenge to the validity of the ’941 patent warrants the resources or expense of proceeding for the Parties or the Board.

Mot. 2. Petitioner further states that

This motion seeks termination without prejudice, but the Parties recognize that any subsequent petition for *Inter Partes* Review by Petitioner challenging the ’941 patent would be subject to the seven-factor test outlined by the Board in *General Plastics Indus. v. Canon Kabushiki Kaisa*, IPR2017-01357, Paper No. 17 (PTAB Sept. 6, 2017).

Mot. 4.

This case has not been decided on the merits and is still in the preliminary proceeding stage. After reviewing the Motion, we determine that it is appropriate to terminate the proceeding without deciding whether to institute an *inter partes* review. Therefore, Petitioner’s Motion to Terminate Proceeding without Prejudice is GRANTED.

Accordingly, it is
ORDERED that Petitioner's Motion to Terminate Proceeding without
Prejudice is GRANTED;
FURTHER ORDERED that this proceeding is hereby
TERMINATED.

PETITIONER:

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