

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SINCLAIR PHARMA LIMITED, SINCLAIR PHARMA US, INC., VIORA,
INC., EMA AESTHETICS, LTD., AND AESTHETIC MANAGEMENT
PARTNERS, LLC AND AESTHETIC MANAGEMENT PARTNERS, INC,
Petitioners,

v.

HYDRAFACIAL LLC,
Patent Owner.

Case No. IPR2025-00145
Patent No. 11,865,287

PETITIONERS' REQUEST FOR DIRECTOR REVIEW

Petitioners respectfully seek Director Review under 37 C.F.R. § 42.75(c) to reinstate this IPR because the sole basis for the previous *sua sponte* de-institution and termination—*i.e.*, a decision by the U.S. International Trade Commission (“ITC”) regarding the ’287 patent—has now been vacated by the United States Court of Appeals for the Federal Circuit.

This IPR was at an advanced stage when it was stayed (and subsequently de-instituted and terminated) based on the now-vacated ITC decision. Reinstating it and returning it to the Board to complete the proceedings would enhance the efficiency of IPRs on two related patents, which the Director recently unstayed in view of the same Federal Circuit decision. Because those two IPRs are at a less advanced stage, their efficiency would be improved by permitting the Board to complete this IPR on the ’287 patent.

I. PROCEDURAL HISTORY

This IPR was de-instituted and terminated on February 12, 2026 in view of a now-vacated ITC decision. Paper 41. Before Director Review was initiated *sua sponte* on December 22, 2025 to consider possible de-institution and termination (Paper 40, 3), this IPR had reached an advanced stage. Petitioners filed their Reply on December 17, 2025 (Paper 39), Patent Owner was preparing to file its Sur-Reply on February 5, 2026, and the parties were preparing for oral argument on March 12, 2026. Paper 13, 12; Paper 31, 1.

On March 16, 2026, within thirty days of the de-institution decision as required by 37 C.F.R. § 42.71(d)(2), Petitioners filed a request for rehearing of the Director's Order terminating this IPR. Paper 42. In briefing their rehearing request, Petitioners explained that the ITC decision would likely be vacated, either by the ITC or by the Federal Circuit. *Id.*, 8; Paper 44, 3.

The Director denied the request for rehearing on April 20, 2026 (Paper 46), three months before the Federal Circuit ultimately vacated the ITC decision on July 23, 2026. *Cartessa Aesthetics, LLC v. Int'l Trade Comm'n*, Nos. 2026-1582, 2026-1881, 2026 WL 2123050, at *1-2 (Fed. Cir. July 23, 2026).

On August 25, 2026, in view of the Federal Circuit's vacatur order, the Director unstayed the two instituted IPRs (IPR2025-01169 and IPR2025-01217) involving the related '052 and '477 patents, which had been instituted and simultaneously stayed in view of the Director's pending review of the institution decision in this IPR. IPR2025-01169, Paper 22; IPR2025-01217, Paper 19.

II. DIRECTOR REVIEW IS WARRANTED

Good cause exists to vacate the de-institution and termination of this IPR because the sole basis for doing so—the ITC decision—has now been vacated. Indeed, following the vacatur, the Director lifted the stay of IPRs on the related '052 and '477 patents and returned them to the Board for further proceedings. *Id.* It follows that this IPR should likewise be unstayed and returned to the Board.

This is especially true here, where allowing this IPR to proceed will create efficiencies with respect to the recently unstayed '052 and '477 patent IPRs.

Patent Owner cannot dispute the significant overlap in issues that will be decided in all three IPRs, as Patent Owner has already argued to the Director that the '287, '052, and '477 patents are “*part of a close patent family*...each of which recite *substantially similar claim limitations* directed to multi-container skin treatments systems enabling the selection and delivery of different treatment materials.”

IPR2025-01217, Paper 7, 5; IPR2025-01169, Paper 7, 6 (emphasis added).

Moreover, as noted above, this IPR was at an advanced stage when it was stayed—with only Patent Owner’s Sur-Reply and oral argument remaining. Proceeding with this IPR’s near-complete record would create efficiencies in the '052 and '477 patent IPRs by streamlining the consideration of overlapping issues.¹

Further, pursuant to 37 C.F.R. § 42.75(c)(1), good cause exists for the Director to grant an extension of the time period to file a request for Director Review set forth in 37 C.F.R. § 42.71(d). The basis for this request for Director Review—the Director’s conclusion of *sua sponte* Director Review and lifting of the stays of the '052 and '477 patent IPRs—did not arise until August 25, 2026.

¹ The final written decision in this IPR was originally due on June 2, 2026. However, in IPRs that were joined (such as this one), the Office routinely extends such dates under 37 C.F.R. § 42.100(c). The Office is still authorized by statute to complete the proceeding by December 2, 2026. 35 U.S.C. § 316(a)(11).

Once the Director determined that the '052 and '477 patent IPRs should be unstayed (and not de-instituted or terminated) in view of the vacatur of the ITC decision, the same rationale applied to vacate the de-institution and termination of this IPR. Petitioners waited until the Director issued the August 25, 2026 Order in the '052 and '477 patent IPRs, and then filed this request promptly thereafter.

III. THIS CASE PRESENTS EXTRAORDINARY CIRCUMSTANCES

A party is typically allowed “one request for Director Review of a decision.” 37 C.F.R. § 42.75(c). Given the extraordinary circumstances here, Petitioners respectfully request, per 37 C.F.R. § 1.183, waiver of the “one request” limitation and the similar language in 37 C.F.R. § 42.71(d), and any applicable timing limitations, including in 37 C.F.R. § 42.71(d). This Request constitutes Petitioners’ petition under 37 C.F.R. § 1.183. As noted above, Petitioners were required by 37 C.F.R. § 42.71(d) to file their request for rehearing of the Order terminating this IPR by March 16, 2026. The Federal Circuit’s vacatur giving rise to this request did not issue until over four months later. Thus, the basis for Petitioners’ Request—the same basis upon which the Director has already decided to return the related '052 and '477 patent IPRs to the Board—was not available when Petitioners had to file their rehearing request. Petitioners respectfully submit that the Federal Circuit’s subsequent vacatur of the ITC decision presents an extraordinary circumstance that warrants allowing Petitioners to file this request.

IV. FEE AUTHORIZATION

The Commissioner is hereby authorized to charge the petition fee set forth in 37 C.F.R. § 1.17(f) and the Director Review fee set forth in 37 C.F.R. § 42.15(f) to Deposit Account No. 23/2825. If necessary for reinstatement of this IPR, the Commissioner is additionally authorized to charge \$38,250 to cover certain post-institution fees for this IPR previously paid on November 25, 2025, and refunded on May 14, 2026, to Deposit Account No. 23/2825.

V. CONCLUSION

Petitioners respectfully request that the Director waive the “one request” limitation in 37 C.F.R. § 42.75(c), the similar language in 37 C.F.R. § 42.71(d), and any applicable timing limitations including in 37 C.F.R. § 42.71(d), reconsider and vacate the February 12, 2026 Order, and reinstate this IPR so that the Board can issue a final written decision on the merits.

Respectfully submitted,

Date: August 28, 2026

/Scott A. McKeown/

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Counsel for Petitioners

CERTIFICATE OF SERVICE UNDER 37 C.F.R. § 42.6(e)(4)

I certify that on August 28, 2026, a copy of the foregoing document, including any exhibits filed therewith, is being served via electronic mail, as previously consented to by Patent Owner, upon the following:

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Date: August 28, 2026

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