

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Klipsta PTY LTD
Petitioner

v.

Lindsay Albanese
Patent Owner

Patent No. 10,413,047
Case No. IPR2025-00346

**PATENT OWNER'S NOTICE AND WAIVER
OF PRELIMINARY RESPONSE**

PATENT OWNER’S NOTICE AND WAIVER OF PRELIMINARY
RESPONSE

Patent Owner Lindsay Albanese (“Patent Owner”), by and through the undersigned counsel, hereby notifies the Board that it respectfully declines to present claims and defenses this *inter partes* review. Patent Owner clarifies for the record, however, that it is not abandoning the contest and that adverse judgment is not appropriate under 37 C.F.R. §42.73(b)(4). See *Apple Inc. v. Zipit Wireless, Inc.* (IPR2021-01124, -01125, -01126, -01129, Paper No. 15, Dec. 21, 2022)

Rather, Patent Owner has determined to simply accept the Board’s final written decision in the event that the Board determines that Petitioner has proven unpatentability by a preponderance of the evidence. See 35 U.S.C. § 316(e) (“In an *inter partes* review..., the petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence” and “the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.”). *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (2012) (requiring inter partes review petitions to identify “with particularity... the evidence that supports the grounds for the challenge to each claim”)).

Patent Owner’s decision to not-present claims and defenses in this IPR should not be construed as an admission as to the strengths of the Petition or that any of the

claims of the '047 Patent are invalid. Indeed, each of the references cited in the Petition have deficiencies. For example, Petitioner's primary reference, KR 101457458, fails to disclose retaining a hat between magnets as would be required by the claim construction set forth in the Petition. Nevertheless, Patent Owner has determined its resources are best directed to its other endeavors and will accept the final written decision of the United States Patent and Trademark Office.

Dated: April 14, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. 42.6(e), I certify that on April 14, 2025 a true and correct copy of the foregoing was served by electronic mail on Petitioner's lead and backup counsel at the following addresses:

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