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Paper 40
Date: December 22, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

SINCLAIR PHARMA LIMITED, SINCLAIR PHARMA US, INC., VIORA, INC., EMA AESTHETICS LTD., AESTHETIC MANAGEMENT PARTNERS, LLC, and AESTHETIC MANAGEMENT PARTNERS, INC.
Petitioner,

v.

HYDRAFACIAL LLC,
Patent Owner.

IPR2025-00145
Patent 11,865,287 B2

Before JOHN A. SQUIRES, *Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

ORDER
Initiating *Sua Sponte* Director Review and Staying Proceeding

On June 2, 2025, the Board instituted an *inter partes* review ("IPR") in the above-referenced proceeding. Paper 12. Hydrafacial LLC ("Patent Owner") requested Director Review of the Board's institution decision, arguing that the Board should have denied institution in view of a parallel proceeding in the U.S. International Trade Commission ("ITC") involving the same patent, prior art, and asserted grounds. *See* Paper 15. Sinclair Pharma Limited, Sinclair Pharma US, Inc., Viora, Inc., EMA Aesthetics Ltd., Aesthetic Management Partners, LLC, and Aesthetic Management Partners, Inc. (collectively, "Petitioner") responded that Patent Owner waived the arguments presented in the Director Review request because Patent Owner had waived its preliminary response and, therefore, never presented any arguments for discretionary denial to the Board. *See* Paper 16, 1; *see also* Paper 11 (Patent Owner's Notice of Waiver of Patent Owner Preliminary Response). Patent Owner's Director Review request was denied. Paper 20.

On September 16, 2025, a memorandum was issued to the Board explaining that the Board will consider prior findings of fact and conclusions of law when patent claims being challenged before the Board have already been adjudicated at the Office or in another forum, such as the ITC. *See* Memorandum, "PTAB Consideration of Prior Findings of Fact and Conclusions of Law" (Sept. 16, 2025).[1] Subsequently, Patent Owner

[1] https://www.uspto.gov/sites/default/files/documents/Memo_re_prior_findings_of_fact_and_conclusions_of_law_9_16_25.pdf.

requested to file a public Initial Determination ("ID") from the ITC proceeding, and the Board granted that request. *See* Papers 26, 32.[2]

In the ID, the ITC determined that the asserted claims—all of which are challenged in this IPR—were not invalid over the same prior art references and combinations that Petitioner asserts in this IPR. *See* Ex. 2161, 99–184. The ITC also found that Patent Owner established that products practicing the claims of the challenged patent are a commercial success. *Id.* at 174–84.

I have reviewed the ID and determine that *sua sponte* Director Review is appropriate to determine whether this IPR should be de-instituted and terminated in view of the findings in the ID that Patent Owner has established commercial success and that the claims are not invalid. *See* 35 U.S.C. § 314(a); 37 C.F.R. § 42.72; *Sling TV, L.L.C. v. Realtime Adaptive Streaming LLC*, 840 F. App'x 598 (Fed. Cir. 2021); *BioDelivery Scis. Int'l, Inc. v. Aquestive Therapeutics, Inc.*, 935 F.3d 1362 (Fed. Cir. 2019). This IPR will be stayed until further notice, and an opinion will issue in due course.

Accordingly, based on the foregoing, it is:

ORDERED that a *sua sponte* Director Review of the Board's Decision granting institution of *inter partes* review (Paper 12) is initiated;

FURTHER ORDERED that this IPR is stayed until further notice; and

FURTHER ORDERED that an opinion will issue in due course.

[2] The ID issued on August 25, 2025, and a public version was entered on September 16, 2025. Both occurred after the Board instituted review and after Patent Owner's Director Review request was denied.

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