

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICHAEL J. SINDONI, JR.,  
Application 14/834,548,  
Petitioner,

v.

FCA US LLC,  
Patent 9,067,525,  
Respondent.

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Case DER2016-00003

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Before JAMESON LEE, SALLY C. MEDLEY, and JAMES T. MOORE,  
*Administrative Patent Judges.*

LEE, *Administrative Patent Judge.*

ORDER  
Conduct of Proceeding  
37 C.F.R. § 42.5

## Introduction

On January 26, 2016, Michael J. Sindoni, Jr. (“Petitioner”) filed a Petition (“Pet.”) on the basis of Petitioner’s Application 14/834,548 (“the ’548 application,” Ex. 1002). Paper 1. The Petition was filed nominally against Respondent’s Application 14/209,123, but that application issued as Patent No. 9,067,525 B1 (“Respondent’s ’525 patent” or “the ’525 patent”) on June 30, 2015, more than six months prior to filing of the Petition. Petitioner filed Exhibit 1001 and refers to it as Respondent’s Application 14/209,123 (Pet. 3), when in actuality it is a copy of the ’525 patent. Petitioner evidently regards the ’525 patent the same as Respondent’s Application 14/209,123. To minimize confusion, we consider the Petition as having been filed against the claims of Respondent’s ’525 patent. We also regard Petitioner’s references to the claims of Respondent’s Application 14/209,123 as references to the claims of Respondent’s ’525 patent.

No substantive Office Action has issued in Petitioner’s ’548 application. The ’548 application was published on March 3, 2016, as US Pub. App. 2016-0059763-A1. We see no reason to continue to maintain as non-public the records of this proceeding.

## Discussion

Although Petitioner’s application still awaits initial examination and is without indication of allowable subject matter, more than fifteen months have passed since filing of the Petition. Respondent’s ’525 patent has issued since almost two years ago. Under this circumstance, it is appropriate to take action on the Petition.

Accordingly, we now consider whether a trial to determine derivation of invention should be instituted based on the Petition. The parties may expect that a

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decision on whether to institute trial to determine derivation of invention will issue in due course. This is not a decision, under 37 C.F.R. § 42.408, instituting trial for a derivation proceeding.

### Order

It is

ORDERED that pursuant to 37 C.F.R. § 42.3(a), the Board herein exercises exclusive jurisdiction over Petitioner's Application 14/834,548, such that prosecution of Petitioner's Application 14/834,548 is *suspended* until further notice;

FURTHER ORDERED that a copy of this order will be placed in the file of Petitioner's Application 14/834,548 and Respondent's Patent No. 9,067,525 B1;

FURTHER ORDERED that the record of this proceeding will be made public on or after May 20, 2017, unless either party submits a paper, prior to May 20, 2017, to explain why the record of this proceeding should still be maintained as non-public; and

FURTHER ORDERED that if Petitioner can provide a more legible copy of the last two pages of Exhibit 1006, then another full copy of Exhibit 1006, including the more legible last two pages, shall be filed within two weeks of the date of this communication.

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