

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TOYOTA MOTOR CORPORATION,  
Petitioner,

v.

AMERICAN VEHICULAR SCIENCES LLC,  
Patent Owner.

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Case IPR2013-00424  
Patent 5,845,000 B2

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Before JAMESON LEE, TREVOR M. JEFFERSON, and  
LYNNE E. PETTIGREW, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*.

ORDER  
Conduct of Proceeding  
37 C.F.R. § 42.05

## Introduction

This *inter partes* review was instituted on January 14, 2014. Paper 16. Oral argument was held on August 18, 2014. Paper 37. A final written decision is expected on or prior to January 14, 2015. 35 U.S.C. § 316(a)(11). On December 9, 2014, a conference call was held among respective counsel for the parties and Judges Lee, Jefferson, and Pettigrew. Patent Owner initiated the conference call to request authorization to file a Motion to Terminate Reexamination Proceeding. The motion would seek termination not of this proceeding, but an *ex parte* reexamination proceeding recently requested by Petitioner for U.S. Patent No. 5,845,000 (“the ’000 patent”), on November 13, 2014, Reexamination Control No. 90/020,078.

## Discussion

Counsel for Patent Owner explained that Petitioner’s recently filed request for *ex parte* reexamination amounts to yet another bite of the apple by Petitioner, noting this proceeding, and also IPR2015-00262, filed by Petitioner on November 17, 2014, both directed to the ’000 patent. Patent Owner would request, in its motion, that we exercise authority under 35 U.S.C. § 315(d) to terminate the *ex parte* reexamination proceeding requested by Petitioner. According to Patent Owner, the multiple proceedings attempted to be instituted by Petitioner are abusive. Also according to Patent Owner, the estoppel provision of 35 U.S.C. § 315(e)(1) applies to preclude Petitioner from requesting or maintaining another proceeding before the U.S. Patent and Trademark Office.

Notwithstanding the above-noted contentions, counsel for Patent Owner concedes that nothing from any potential reexamination proceeding to be ordered on the basis of Petitioner’s request for *ex parte* reexamination

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possibly can affect the final written decision in this proceeding. Also, we note that no reexamination proceeding has been ordered for the '000 patent based on the recently filed request for reexamination. For both of these reasons, there is no occasion for Patent Owner to file, in this proceeding, a Motion to Terminate Reexamination which seeks to terminate a reexamination proceeding.

#### Conclusion

It is ORDERED that Patent Owner is not authorized to file, in this proceeding, a Motion to Terminate Reexamination.

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