

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FINISAR CORP.,
Petitioner,

v.

THOMAS SWAN & CO. LTD.,
Patent Owner.

Case IPR2014-00460 (Patent 7,145,710 B2)
Case IPR2014-00461 (Patent 7,664,395 B2)
Case IPR2014-00462 (Patent 8,089,683 B2)
Case IPR2014-00465 (Patent 8,335,033 B2)¹

Before SALLY C. MEDLEY, MICHELLE R. OSINSKI, and
BARBARA A. PARVIS, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

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

¹ This decision addresses issues that are the same in each of the four cases. We exercise our discretion to issue one decision to be entered in each case. The parties are not authorized to use this heading style without authorization from the Board.

Case IPR2014-00460 (Patent 7,145,710 B2)
Case IPR2014-00461 (Patent 7,664,395 B2)
Case IPR2014-00462 (Patent 8,089,683 B2)
Case IPR2014-00465 (Patent 8,335,033 B2)

Petitioner filed petitions for *inter partes* review of the four involved patents and Patent Owner filed preliminary responses. On August 21, 2014, we instituted trial for each case.

On October 23, 2014, the parties informed the Board that the parties have reached a settlement agreement. The parties seek authorization from the Board to file a joint motion to terminate the proceeding pursuant to 35 U.S.C. § 317.

An *inter partes* review has been instituted in each case. The Board does not have before it full briefing on the issues raised during each trial. Moreover, the Board has not entered a final written decision. Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement. *See, e.g.*, Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). The rule governing settlement indicates that any agreement between the parties made in connection with, or in contemplation of, the termination of a proceeding shall be in writing and filed with the Board. 37 C.F.R. § 42.74.

Based on the facts of these proceedings, the parties are authorized to, and shall file, in addition to the settlement agreement, a joint motion to terminate the proceeding briefly explaining why termination is appropriate in these cases. The joint motion also should update the Board as to the status of any other matters involving the patents at issue. The parties also must file, as an exhibit, a true copy of their settlement agreement to terminate the proceedings. A redacted version of the settlement agreement will not be accepted as a true copy of the settlement agreement. Any request that the agreement be treated as business confidential information and be kept separate from the files of the involved patent must be filed with the settlement agreement. 37 C.F.R. § 42.74(c). The parties are directed to FAQ G2 on the Board's website page at

Case IPR2014-00460 (Patent 7,145,710 B2)
Case IPR2014-00461 (Patent 7,664,395 B2)
Case IPR2014-00462 (Patent 8,089,683 B2)
Case IPR2014-00465 (Patent 8,335,033 B2)

<http://www.uspto.gov/ip/boards/bpai/prps.jsp> for instructions on how to file their settlement agreement as confidential (*e.g.*, uploading as “Parties and Board Only”).

The joint motion to terminate and the settlement agreement shall be filed no later than November 3, 2014.

Accordingly, it is

ORDERED that the parties are authorized to file a separate joint motion to terminate in each proceeding;

FURTHER ORDERED that the joint motions are due no later than November 3, 2014; and

FURTHER ORDERED that the joint motions shall be accompanied by a true copy of the settlement agreement as required by 37 C.F.R. § 42.74(b);

FURTHER ORDERED that the parties may request that the settlement agreement be treated as business confidential information as specified by 37 C.F.R. § 42.74(c); and

FURTHER ORDERED that any confidential settlement agreement must be filed electronically via the Patent Review Processing System (PRPS) in accordance with the instructions provided on the Board’s website (*e.g.*, uploading as “Parties and Board Only”); and

FURTHER ORDERED that the remaining DUE DATES in the proceedings are *vacated*.

Case IPR2014-00460 (Patent 7,145,710 B2)
Case IPR2014-00461 (Patent 7,664,395 B2)
Case IPR2014-00462 (Patent 8,089,683 B2)
Case IPR2014-00465 (Patent 8,335,033 B2)

PETITIONER:

David Radulescu
david@radulescullp.com

Gregory Maskel
greg@radulescullp.com

Kurt Rauschenbach
kurt@rauschenbach.com

PATENT OWNER:

Marc Wefers
wefers@fr.com

Karl Renner
IPR28733-0002IP1@fr.com