

Trials@uspto.gov
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IPR2015-00122 Paper 35; IPR2015-00123 Paper 35
IPR2015-00124 Paper 34; IPR2015-00125 Paper 33
IPR2015-00133 Paper 31; IPR2015-00137 Paper 30
Entered: March 17, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ASKELADDEN LLC,
Petitioner,

v.

SEAN I. MCGHIE and BRIAN BUCHHEIT,
Patent Owner.

Cases IPR2015-00122 (Patent 8,523,063)
IPR2015-00123 (Patent 8,523,063)
IPR2015-00124 (Patent 8,540,152)
IPR2015-00125 (Patent 8,540,152)
IPR2015-00133 (Patent 8,297,502)
IPR2015-00137 (Patent 8,297,502)¹

Before SALLY C. MEDLEY, JONI Y. CHANG, and
GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

ORDER

Denying Patent Owner's Request to refile Preliminary Responses
37 C.F.R. §§ 42.5

¹ This Order addresses issues that are the same in the identified cases. We exercise our discretion to issue one Order to be filed in each case. The parties are not authorized to use this style heading.

IPR2015-00122 (Patent 8,523,063)
IPR2015-00124 (Patent 8,540,152)
IPR2015-00133 (Patent 8,297,502)

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IPR2015-00125 (Patent 8,540,152)
IPR2015-00137 (Patent 8,297,502)

Petitioner Askeladden LLC (“Askeladden”) filed a Petition requesting an *inter partes* review in each of the above-identified proceedings. Paper 1,² “Pet.” Patent Owner Sean I. McGhie and Brian Buchheit filed a Patent Owner Preliminary Response in each of the above-identified proceedings. Paper 10. In its Preliminary Responses, Patent Owner raised a real party-in-interest issue. *Id.* at 53. We decided that issue. Papers 26 and 30.

Soon thereafter, Patent Owner emailed the Board requesting leave to refile its Preliminary Responses to essentially take out the real party-in-interest arguments and replace them with something else. Petitioner opposed the request.

We exercised our discretion to decide the real party-in-interest issue separate from any decisions on whether to institute *inter partes* reviews in these proceedings. That does not mean, however, that Patent Owner may now supplant or refile the Patent Owner Preliminary Responses. The issue did not go away as Patent Owner seems to believe, but rather was decided.

Based on the facts of these proceedings, we determine that providing Patent Owner an opportunity to refile preliminary responses would not result in securing the just, speedy, and inexpensive resolution of these proceedings. 37 C.F.R. § 41.1(b).

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner’s request to refile its preliminary responses is *denied*.

² Citations are to IPR2015-00133.

IPR2015-00122 (Patent 8,523,063)
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IPR2015-00125 (Patent 8,540,152)
IPR2015-00137 (Patent 8,297,502)

For PETITIONER:

Robert H. Fischer
Frank A. DeLucia
Stephen Yam
Justin Oliver
Fitzpatrick, Cella, Harper & Scinto
askeladdenIPR@fchs.com
joliver@fchs.com

For PATENT OWNER:

Brian Buchheit
bbuchheit@gmail.com

Sean McGhie
sean.mcghie@me.com