

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARTSANA USA, INC.,
Petitioner

v.

KOLCRAFT ENTERPRISES, INC.,
Patent Owner

Case IPR2015-00582
Patent 8,388,501

PATENT OWNER'S PRELIMINARY RESPONSE

In accordance with 35 U.S.C. § 313 and 37 C.F.R. § 42.107, Kolcraft Enterprises, Inc. (“Kolcraft” or “Patent Owner”) respectfully submits this Preliminary Response to the Petition for *Inter Partes* Review of claims 1 -20 of U.S. Patent No. 8,388,501 (the “501 patent”) filed by Artsana USA, Inc. (“Artsana” or “Petitioner”). This Preliminary Response is timely under 37 C.F.R. § 42.107(b) because it is being filed within three months of the mailing date of the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response (Paper 4), which was mailed on February 4, 2015.

As the Petitioner stated in Paper 3 the “Patent Owner...filed suit against Petitioner...asserting...U.S. Patent No. 8,388,501...[and] Petitioner was served with Patent Owner’s Complaint on July 11, 2013.” The instant proceeding was filed on January 20, 2015, more than one year past the service of the Patent Owner’s complaint, with a Motion for Joinder (Paper 3) to IPR2014-01053.

The Board stated in the Judgement, paper No. 24., of IPR2014-01053 that “it is not in dispute that the Petitioner’s later Petition [the instant proceeding] would otherwise be time barred if it could not be joined to a preexisting *inter partes* review. We have considered the Request for Adverse Judgment, and Petitioner’s request for delay, and hereby grant the Patent Owner’s request for adverse judgment, without the requested delay.” IPR2014-01053 has been terminated and

the instant proceeding cannot be joined to IPR2014-01053. The instant proceeding is therefore undisputedly time barred by 35 U.S.C. § 315(b) and should be terminated.

For the reasons discussed above, Kolcraft respectfully asks the Board to terminate the instant proceeding.

Dated: April 28, 2015

Respectfully submitted,

/Brian P. Lynch/

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Representative for Patent Owner

Certificate of Service in Compliance With 37 C.F.R. § 42.6(e)(4)

The undersigned certifies that a complete copy of Patent Owner's Preliminary Response has been served electronically in its entirety to the attorneys of record for the Petitioner this April 28, 2015, via email:

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