

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

J KYLE BASS and ERICH SPANGENBERG,
Petitioner,

v.

FRESENIUS KABI USA, LLC,
Patent Owner.

Case IPR2016-00254
Patent 8,476,010 B2

Before SUSAN L. C. MITCHELL, ZHENYU YANG, and
TINA E. HULSE, *Administrative Patent Judges*.

HULSE, *Administrative Patent Judge*.

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

A conference call was held on March 30, 2016, among counsel for the parties and Judges Mitchell, Yang, and Hulse. Patent Owner initiated the call to request authorization to file a motion for additional discovery in the form of interrogatories on the subject of real parties-in-interest.

The Petition was filed by J. Kyle Bass and Erich Spangenberg. Messrs. Bass and Spangenberg have also filed other petitions for *inter partes* review through a number of corporate entities, including various “Coalition for Affordable Drugs LLC” entities. Because those other entities were not named in the instant Petition as real parties-in-interest, Patent Owner seeks specific information regarding whether those other persons or entities were involved in the Petition in this proceeding.

In response, Petitioner argues that Patent Owner’s request is based on speculation that any other entity is involved in this proceeding. Petitioner further states that although Messrs. Bass and Spangenberg have filed other petitions for *inter partes* review through corporate entities, they have filed this Petition in their personal capacity.

At this stage of the proceeding, we are not inclined to authorize briefing on this issue. Patent Owner has already filed its Patent Owner Preliminary Response (Paper 6), and we have not determined whether to institute trial in this case. Patent Owner’s request is, therefore, premature at this time. If we decline to institute trial, Patent Owner’s request for additional discovery will be moot. If we do institute trial, Patent Owner may renew its request for discovery at the appropriate time, and we can address the merits at that time.

ORDER

Accordingly, it is

ORDERED that Patent Owner's request for authorization to file a motion for additional discovery regarding real parties-in-interest is denied without prejudice; and

FURTHER ORDERED that if trial is instituted, Patent Owner may renew its request at the appropriate time.

PETITIONER:

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