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**TO:**

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From: Kerry S. Tuszynski

Re: Deposit Account 19-1853, Refund of \$14,000 for REF TEXT: IPR2017-00712  
01/17/2017 Fee Code: 1414

**MESSAGE:**

Dear Sirs,

Please provide a refund as it was ORDERED that our Petition was DENIED and no Inter Partes Review was instituted.

Attached is the DECISION denying the Inter Partes Review.

Thank you.

Kerry S. Tuszynski  
Legal Secretary  
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Paper 9  
Entered: July 12, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ZTE (USA) INC.,  
Petitioner,

v.

PAPST LICENSING GMBH & CO. KG,  
Patent Owner.

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Case IPR2017-00712  
Patent 9,189,437 B2

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Before JONI Y. CHANG, JENNIFER S. BISK, and JAMES B. ARPIN,  
*Administrative Patent Judges.*

ARPIN, *Administrative Patent Judge.*

DECISION  
Denying Institution of *Inter Partes* Review.  
37 C.F.R. § 42.108

IPR2017-00712  
Patent 9,189,437 B2

Owner failed to submit a proper specific reference under 35 U.S.C. § 120 to the '002 application in the '778 application or that Patent Owner *expressly* abandoned the '778 application. As a result, Petitioner does not establish a reasonable likelihood of showing that the PCT Publication is prior art under 35 U.S.C. § 102(b) against the challenged claims of the '437 patent.

For the foregoing reasons, we determine that Petitioner fails to establish sufficiently that the challenged claims are not entitled to the benefit of the '002 application's filing date. Consequently, Petitioner fails to make a threshold demonstration that the PCT Publication, to which the '437 patent claims priority, is prior art against the challenged claims of the '437 patent in this proceeding. 35 U.S.C. § 311(b); 37 C.F.R. § 42.104(b)(2).

Accordingly, we conclude that Petitioner has not established a reasonable likelihood of prevailing on its assertion that claims 1, 12, 15, 16, 18, 30, 43 and 45 of the '437 patent are unpatentable, as anticipated by the PCT Publication.

### III. CONCLUSION

For the foregoing reasons, we determine that Petitioner has not establish a reasonable likelihood of prevailing on its assertion that any of claims 1, 12, 15, 16, 18, 30, 43 and 45 of the '437 patent are unpatentable.

### IV. ORDER

For the foregoing reasons, it is

**ORDERED** that the Petition is *denied*, and no trial is instituted.