

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GLAXOSMITHKLINE BIOLOGICALS SA,
Petitioner,

v.

PFENEX INC.,
Patent Owner.

IPR2020-00890
Patent 8,530,171 B2

Before ULRIKE W. JENKS and SUSAN L. C. MITCHELL, *Administrative Patent Judges*.

MITCHELL, *Administrative Patent Judge*.

DECISION

Dismissal Prior to Institution of Trial
35 U.S.C. § 314

I. DISCUSSION

On May 7, 2020, GlaxoSmithKline Biologicals SA (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1–36 of U.S. Patent No. 8,530,171 B2 (“the ’171 patent”). Pet. 3.

On June 29, 2020, pursuant to authorization by the Board, Petitioner filed a Motion to Withdraw Petition for *Inter Partes* Review in this proceeding. Paper 7 (“Motion”). In the Motion, Petitioner states that “[o]n May 26, 2020, Petitioner filed a Second Petition in IPR2020-00962 (Paper 1, “’962 IPR Petition”) against the same claims of the ’171 patent to account for a potential dispute regarding the prior art status of the Blais reference.” Motion 2. Petitioner also indicates that “withdrawal of the petition at this very early stage of the proceeding would preserve both the Board’s and the parties’ resources and would further the objective of 37 C.F.R. § 42.1(b) in ‘secur[ing] the just, speedy, and inexpensive resolution of every proceeding.’” *Id.* at 4. Petitioner represents that Pfenex Inc. (“Patent Owner”) does not oppose the Motion. *Id.* at 2, 4. Petitioner also filed an email from Patent Owner’s counsel indicating that Patent Owner does not oppose the Motion. Ex. 1030.

This proceeding is at an early stage, and we have not yet considered the IPR2020-00890 Petition’s merits, nor have we instituted a trial. In view of the early stage of this proceeding, we determine it is appropriate to dismiss the Petition and terminate the proceeding to promote efficiency and minimize unnecessary costs. *See* 37 C.F.R. § 42.71(a). Therefore, Petitioner’s unopposed Motion is granted.

This paper does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

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II. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Motion is *granted*;

FURTHER ORDERED that the IPR2020-00890 Petition is *dismissed*;

FURTHER ORDERED that the IPR2020-00890 proceeding is
terminated; and

FURTHER ORDERED that this paper does not constitute a final
written decision pursuant to 35 U.S.C. § 318(a).

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