

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DYNATEMP INTERNATIONAL, INC. and FLUOROFUSION
SPECIALTY CHEMICALS, INC.,

Petitioner,

v.

R 421A LLC d/b/a CHOICE REFRIGERANTS,
Patent Owner.

IPR2020-01660
Patent 9,982,179 B2

Before GRACE KARAFFA OBERMANN, MICHELLE N. ANKENBRAND,
MONTÉ T. SQUIRE, and JAMIE T. WISZ, *Administrative Patent Judges*.¹

OBERMANN, *Administrative Patent Judge*.

DECISION
Denying Petitioner's Request for
Authorization to Withdraw the Petition
37 C.F.R. § 42.71

¹ This is not an expanded panel. The caption identifies judges assigned to one or more of three related cases, namely, the instant case, IPR2021-00199 ("IPR199") and PGR2021-00008 ("PGR008"). These judges presided over a consolidated teleconference in the three proceedings on May 18, 2021. We file related Decisions today in IPR199 and PGR008.

In an email to the Board dated May 11, 2021, Petitioner requested permission to file a motion to withdraw the Petition. Ex. 3002. Petitioner stated that Patent Owner opposes the request. *Id.* The Board (Judges Squire, Obermann, Ankenbrand, and Wisz) held a telephonic conference call on May 18, 2021, attended by counsel for Petitioner, Mr. Jon Trembath, and counsel for Patent Owner, Mr. Jason Perilla. Neither party retained a court reporter. This Decision represents the official record of the teleconference.

There was some discussion about whether a statement Petitioner made in the email to the Board was binding on Petitioner. *See* Ex. 3002, 1 (“If its motion is granted, Petitioner confirms that it does not intend to file any subsequent petitions with the Board challenging U.S. Patent No. 9,982,179.”). The Board asked Patent Owner whether it would oppose an order memorializing Petitioner’s representation that it will not file any other petition in this forum seeking review of the patent at issue. Patent Owner stated that it would not oppose such an order.

The panel conferred privately after placing counsel on a brief hold. The Board then resumed the teleconference. The Board observed that it previously adjudicated the Petition by entry of a decision declining to institute trial. *See* Paper 15 (decision denying institution, entered April 20, 2021). The Board asked Petitioner to identify any case law or other authority supporting a withdrawal of a petition under circumstances similar to those presented here. Petitioner admitted it was aware of none. The Board informed the parties that the panel had conferred and decided to deny Petitioner’s request for authorization to file a motion to withdraw the Petition because the Board had already adjudicated the Petition.

The Board further advised the parties that our order would include a prohibition that Petitioner shall not file in this forum any other petition requesting review of U.S. Patent No. 9,892,179 B2. Upon further questioning, Petitioner expressly affirmed that it willingly agrees to abide by that prohibition.

ORDER

Accordingly, it is

ORDERED that Petitioner's request for authorization to file a motion to withdraw the Petition is *denied*; and

FURTHER ORDERED that Petitioner shall not file in this forum any other petition requesting review of U.S. Patent No. 9,982,179 B2.

IPR2020-01660
Patent 9,982,179 B2

FOR PETITIONER:

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