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Subject: Zak Designs v. CamelBak IPR2022-00803 // Stipulation and Reply to Patent Owner's Preliminary Response in view of Intervening Vidal Memo
Date: Thursday, August 11, 2022 10:19:48 AM

Counsel:

In view of CamelBak's Preliminary Response in the above-referenced IPR, Petitioner Zak Designs intends to seek authorization from the Board to file a reply addressing Director Vidal's June 21, 2022 Memorandum on Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation. Director Vidal's Memo issued after the Petition was filed and directly addresses the *Fintiv* factors raised in CamelBak's Preliminary Response.

Additionally, Petitioner hereby stipulates that, if the Board institutes the above-referenced IPR on the Grounds presented in the Petition, Petitioner will not pursue those same Grounds against the challenged claims of U.S. Patent No. 9,782,028 in the parallel district court litigation, *CamelBak Products, LLC v. Zak Designs, Inc.*, Case No. 5-21-cv-05109 (W.D. Ark.). If the Board denies institution, however, Zak Designs reserves the right to pursue the Grounds of the IPR in the district court litigation. The Grounds include:

IPR Ground	Patent Claims	Grounds for Unpatentability
1-2	1, 2, 5-9, 21	<ul style="list-style-type: none">Yamashita under 35 U.S.C. §§ 102, 103
3	1, 2, 5-9, 21	<ul style="list-style-type: none">Yamashita, Paczonay under 35 U.S.C. § 103
4-5	1, 2, 5-9, 21	<ul style="list-style-type: none">Yamashita, Dall'Agnese under 35 U.S.C. § 103Yamashita/Paczonay, Dall'Agnese under 35 U.S.C. § 103
6-8	16	<ul style="list-style-type: none">Yamashita, Manganiello under 35 U.S.C. § 103Yamashita/Paczonay, Manganiello under 35 U.S.C. § 103Yamashita/Paczonay/Dall'Agnese, Manganiello under 35 U.S.C. § 103
9	1, 2, 5, 8-10, 14, 16, 21	<ul style="list-style-type: none">Manganiello, Dall'Agnese under 35 U.S.C. § 103
10	1, 2, 5, 8-10, 14, 16, 21	<ul style="list-style-type: none">Manganiello/Dall'Agnese, Paczonay under 35 U.S.C. § 103
11-12	6	<ul style="list-style-type: none">Manganiello/Dall'Agnese, Anderson under 35 U.S.C. § 103Manganiello/Dall'Agnese/Paczonay, Anderson under 35 U.S.C. § 103
13-14	7	<ul style="list-style-type: none">Manganiello/Dall'Agnese, Yamashita under 35 U.S.C. § 103Manganiello/Dall'Agnese/Paczonay, Yamashita under 35 U.S.C. § 103

See Pet. at 2-3.

Petitioner would not oppose Patent Owner's request to file a sur-reply to Petitioner's reply to the Preliminary Response.

Please let us know if Patent Owner would oppose Petitioner's request. We would like to contact the Board by the end of the day on Friday.

Best regards,
James Stein (lead counsel for Petitioner)

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