

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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JOHN'S LONE STAR DISTRIBUTION, INC.,  
Petitioner,

v.

THERMOLIFE INTERNATIONAL, LLC.,  
Patent Owner.

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Case IPR2014-01201  
Patent 8,455,531

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Before JACQUELINE WRIGHT BONILLA, SHERIDAN K. SNEDDEN,  
and ZHENYU YANG, *Administrative Patent Judges*.

BONILLA, *Administrative Patent Judge*.

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

A conference call in the above-captioned proceeding was held on November 17, 2014, between Judges Bonilla, Snedden, and Yang, and respective counsel for Petitioner and Patent Owner. As outlined in an e-mail communication sent to the Board on November 12, 2014, the purpose of the call was to discuss Petitioner's request for authorization to file: (1) a motion to strike Patent Owner's Preliminary Response filed on November 6, 2014 (Paper 10), as non-compliant with 37 C.F.R. § 42.107(c); and (2) a motion to stay *Ex Parte* Reexamination Control No. 90/013,333.

During the call, we indicated to the parties that we did not authorize Petitioner to file a motion to strike Patent Owner's Preliminary Response. We explained that to the extent that Patent Owner presents in its Preliminary Response any new testimony evidence beyond that already of record, contrary to § 42.107(c), we will address that issue in a decision regarding institution, as necessary.

We also indicated to the parties that we did not authorize Petitioner to file a motion to stay a related reexamination because such a motion would be premature at this time. We indicated to the parties, assuming we institute a review in this proceeding, we may address whether to authorize a party to file a motion to stay the reexamination pending the outcome of this case, only after we render such decision.

According, it is:

ORDERED that Petitioner is not authorized to file a motion to strike Patent Owner's Preliminary Response; and

FURTHER ORDERED that Petitioner is not authorized to file a motion to stay *Ex Parte* Reexamination Control No. 90/013,333.

IPR2014-01201  
Patent 8,455,531

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