

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CHUMS, INC. and CROAKIES, INC.,  
Petitioner,

v.

CABLZ, INC.,  
Patent Owner.

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Case IPR2014-01240  
Patent 8,366,268 B2

Before JOSIAH C. COCKS, JEREMY M. PLENZLER, and  
KRISTINA M. KALAN, *Administrative Patent Judges*.

PLENZLER, *Administrative Patent Judge*.

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

I. INTRODUCTION

In an e-mail to the Board on May 7, 2015, Petitioner (Chums, Inc. and Croakies, Inc.) requested permission to file a motion to suspend prosecution of U.S. Patent Application Nos. 13/660,706 and 14/307,122 (“the related patent applications”). In connection with its request, Petitioner alleged that one or more claims in the related patent applications are patentably indistinct from at least one claim in U.S. Patent No. 8,366,268 (“the ’268 patent”), which is the subject of this proceeding. Petitioner indicated that if certain claims in the ’268 patent are found unpatentable in this proceeding, Patent Owner should be estopped from obtaining claims in the related patent applications that are patentably indistinct from those claims under 37 C.F.R. § 42.73(d)(3)(i).

Initially, we note that Petitioner’s reference to 37 C.F.R. § 42.73(d)(3)(i) is premature, as a final determination regarding the patentability of the claims in the ’268 patent has not yet been made. Additionally, an *inter partes* review merely involves a review of the involved patent, rather than a family of patents and applications. *See e.g.*, 35 U.S.C. 311(b) (“A petitioner in an *inter partes* review may request to cancel as unpatentable 1 or more claims of **a patent.**” Emphasis added.); IPR2013-00083 (Paper 12). We further note that although the Board may stay a reexamination proceeding when the involved patent is subject to reexamination, the Board does not have the authority under 35 U.S.C. § 315(d) to stay prosecution of related patent applications. *Id.*

Accordingly, the request is *denied*.

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In consideration of the above, it is:

ORDERED that Petitioner's request to file a motion to suspend prosecution of U.S. Patent Application Nos. 13/660,706 and 14/307,122 is *denied*.

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