

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAFEWAY, INC. and THE KROGER CO.,
Petitioner,

v.

KROY IP HOLDINGS, LLC,
Patent Owner.

Case IPR2014-00685
Patent 7,054,830 B1

Before MICHAEL J. FITZPATRICK, BARRY L. GROSSMAN, and
JEREMY M. PLENZER, *Administrative Patent Judges*.

FITZPATRICK, *Administrative Patent Judge*.

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

A conference call was held on August 18, 2014, to discuss Petitioner's request for leave to file a motion to correct a filing error. The error is that Petitioner filed a declaration of Warren H. Lieberman, Ph.D., that failed to include his curriculum vitae, despite indicating that it was attached. *See Ex. 1010 ¶ 5*. Patent Owner stated that it opposed the request because its preliminary response has already been filed, in which Patent Owner has challenged the declaration under Federal Rule of Evidence 702. Patent Owner, however, could have asked Petitioner for a copy of the curriculum vitae, as it was aware that Petitioner had intended to provide it as part of the declaration. *See Paper 8, 23* ("The CV mentioned in the Declaration was omitted from the submission."). In any event, if an *inter partes* review is instituted, Patent Owner will have the right to file a response, in which it can address any perceived deficiencies of the declaration.

No motion is necessary.

It is

ORDERED that Petitioner may file the curriculum vitae for Warren H. Lieberman, Ph.D., as an exhibit, on or before August 21, 2014.

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PETITIONER:

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