

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SNAP, INC.,
Petitioner,

v.

VAPORSTREAM, INC.,
Patent Owner.

Cases IPR2018-00200 (Patent 8,886,739 B2)
IPR2018-00312 (Patent 9,306,885 B2)
IPR2018-00369 (Patent 9,313,155 B2)
IPR2018-00416, IPR2018-00439 (Patent 9,413,711 B2)
IPR2018-00455 (Patent 9,313,157 B2)¹

Before JUSTIN T. ARBES, DANIEL N. FISHMAN, STACEY G. WHITE,
and JENNIFER MEYER CHAGNON, *Administrative Patent Judges*.²

PER CURIAM.

DECISION
Motion to Withdraw
37 C.F.R. § 42.10

¹ This decision addresses issues in each of the identified cases. We exercise our discretion to issue one decision to be filed in each case. The parties are not authorized to use this style heading in subsequent papers.

² This is not a decision by an expanded panel of the Board. Judges Arbes, White, and Chagnon are paneled in IPR2018-00200, IPR2018-00312, IPR2018-00369, IPR2018-00416, and IPR2018-00439. Judges Arbes, White, and Fishman are paneled in IPR2018-00455.

Case IPR2018-00200 (Patent 8,886,739 B2)
Case IPR2018-00312 (Patent 9,306,885 B2)
Case IPR2018-00369 (Patent 9,313,155 B2)
Case IPR2018-00416 (Patent 9,413,711 B2)
Case IPR2018-00439 (Patent 9,413,711 B2)
Case IPR2018-00455 (Patent 9,313,157 B2)

INTRODUCTION

On April 30, 2018, without prior Board authorization, Patent Owner filed a motion to withdraw in each of the above-listed proceeding. Paper 11 (“Motion” or “Mot.”).³ Petitioner does not oppose the Motion. Mot. 2. For the following reasons, the Motion is granted.

ANALYSIS

Counsel may not withdraw from a proceeding before the Board unless the Board authorizes such withdrawal. 37 C.F.R. § 42.10(e). Generally, a motion to withdraw counsel will not be entered without prior Board authorization to file such a motion. *See* 37 C.F.R. § 42.20(b). Under 37 C.F.R. § 42.5(b), however, the Board “may waive or suspend a requirement of [part 42 of the Board’s rules] and may place conditions on the waiver or suspension.” We determine in this circumstance that a waiver of prior authorization to file the Motion is appropriate because no prejudice is shown and Petitioner does not oppose the Motion. When filing any subsequent motions not otherwise authorized by rule or order, the parties must obtain prior authorization in compliance with 37 C.F.R. § 42.20(b).

The Motion requests authorization to substitute Michael F. Heim as lead counsel for Jamie T. Gallagher, and to withdraw Morgan S. Heller II

³ The motions are substantially similar. For brevity, we refer to the Paper number in IPR2018-00200.

Case IPR2018-00200 (Patent 8,886,739 B2)
Case IPR2018-00312 (Patent 9,306,885 B2)
Case IPR2018-00369 (Patent 9,313,155 B2)
Case IPR2018-00416 (Patent 9,413,711 B2)
Case IPR2018-00439 (Patent 9,413,711 B2)
Case IPR2018-00455 (Patent 9,313,157 B2)

and Thomas D. Kohler as back-up counsel for Patent Owner. Mot. 2. Patent Owner already has filed an updated power of attorney to effect designation of a new lead attorney and back-up counsel. Paper 12. Designated lead counsel Michael F. Heim is a registered patent attorney. Mot. 2. Designated back-up counsel Douglas R. Wilson, Blaine A. Larson, and Jamie T. Gallagher each is a registered patent attorney. *Id.*

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner's Motion is granted.

Case IPR2018-00200 (Patent 8,886,739 B2)
Case IPR2018-00312 (Patent 9,306,885 B2)
Case IPR2018-00369 (Patent 9,313,155 B2)
Case IPR2018-00416 (Patent 9,413,711 B2)
Case IPR2018-00439 (Patent 9,413,711 B2)
Case IPR2018-00455 (Patent 9,313,157 B2)

PETITIONER:

Heidi L. Keefe
Andrew C. Mace
Mark R. Weinstein
Reuben Chenn
Yuan Liang
COOLEY LLP
hkeefe@cooley.com
amace@cooley.com
mweinstein@cooley.com
rchen@cooley.com
yliang@cooley.com

PATENT OWNER:

Michael F. Heim
Douglas R. Wilson
Blaine A. Larson
HEIM PAYNE & CHORUSH, LLP
mheim@hpcllp.com
dwilson@hpcllp.com
blarson.hpcllp.com

Jamie T. Gallagher
BIRCH TREE IP LAW & STRATEGY PLLC
jamie@Birchtreeip.com