

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FANTASIA TRADING LLC D/B/A ANKERDIRECT,  
Petitioner,

v.

COGNIPOWER, LLC,  
Patent Owner.

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IPR2021-00069  
Patent RE47,031 E

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Before KEVIN F. TURNER, KIMBERLY McGRAW, and  
JOHN R. KENNY, *Administrative Patent Judges*.

McGRAW, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes* Review  
Due to Disclaimer of All Challenged Claims  
35 U.S.C. § 314; 37 C.F.R. § 42.107(e)

## I. INTRODUCTION

Fantasia Trading LLC d/b/a Ankerdirect (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting institution of an *inter partes* review of claim 64 of U.S. Patent No. RE47,031 E (Ex. 1001, “the ’031 patent”). Cognipower, LLC (“Patent Owner”) filed a Preliminary Response, which includes a notice of patent disclaimer directed to the sole challenged claim. Paper 11 (“Prelim. Resp.”); Ex. 2001 (statutory disclaimer).

For reasons that follow, based on the information presented, we deny the Petition based on the disclaimer and, accordingly, do not institute an *inter partes* review.

## II. DISCUSSION

### A. Background

The ’031 patent relates to switched-mode power converters. Ex. 1001, code (57), 1:28–29. Claim 64 is directed to an apparatus configured to provide galvanically isolated switched-mode power conversion. *Id.* at 19:8–30.

Petitioner identifies itself as the real party-in-interest. Pet. 2. Patent Owner identifies itself as the real party-in-interest. Paper 8, 2.

The parties identified the following judicial matter related to the proceeding: *CogniPower LLC v. Fantasia Trading, LLC D/B/A AnkerDirect and Anker Innovations Limited*, No. 1:19-cv-02293 (D. Del). Pet. 30; Paper 8, 2. Patent Owner also identified the following judicial matter also related to the proceeding: *Power Integrations, Inc. v. CogniPower LLC*, No. 1:20-cv-00015 (D. Del). Paper 8, 2.

Concurrent with the present Petition, Petitioner filed three additional petitions challenging claims of the ’031 patent in IPR2021-00067, IPR2021-

00068, and IPR2021-00070 (PTAB). Each of these petitions is currently pending.

Patent Owner identifies IPR2021-00071, IPR2021-00072, and IPR2021-00073 as three additional related IPR proceedings that challenge claims of RE47,713 E, a continuation of the '031 patent. Prelim. Resp. 13; Paper 8, 2–3. In addition, Patent Owner identifies the following currently pending U.S. patent applications as related to the '031 patent: App. No. 16/547,850; App. No. 16/548/897; and App. No. 16/987,654. Paper 8, 3.

### *B. Analysis*

A “patent owner may file a statutory disclaimer under 35 U.S.C. [§] 253(a) in compliance with § 1.321(a) of this chapter, disclaiming one or more claims in the patent. No *inter partes* review will be instituted based on disclaimed claims.” 37 C.F.R. § 42.107(e) (2020).

A disclaimer under 35 U.S.C. § 253(a) is “considered as part of the original patent” as of the date on which it is “recorded” in the Office. 35 U.S.C. § 253(a). For a disclaimer to be “recorded” in the Office, the document filed by the patent owner must:

1. Be signed by the patentee, or an attorney or agent of record;
  2. Identify the patent and complete claim or claims, or term being disclaimed. A disclaimer which is not a disclaimer of a complete claim or claims, or term will be refused recordation;
  3. State the present extent of patentee’s ownership interest in the patent; and
  4. Be accompanied by the fee set forth in 37 C.F.R. § 1.20(d).
- 37 C.F.R. § 1.321(a).

A disclaimer is “recorded” pursuant to 35 U.S.C. § 253(a) on the date that the Office receives a disclaimer meeting the above-listed requirements of 37 C.F.R. § 1.321(a) – no further action is required in the Office for a disclaimer to be “recorded.” *Vectra Fitness, Inc. v. TNWK Corp.*, 162 F.3d 1379, 1382 (Fed. Cir. 1998).

Here, Patent Owner directs us to a statutory disclaimer of claim 64 of the ’031 patent and, further, avers that the disclaimer was “recorded with the Office as of February 25, 2021.” Prelim. Resp. 2 (citing Ex. 2001). Based on our review of Exhibit 2001 and Office public records (that is, the USPTO Patent Application Information Retrieval (PAIR) database, containing the image file wrapper and other information for the ’031 patent), we conclude that a disclaimer of claim 64 of the ’031 patent under 35 U.S.C. § 253(a) was recorded in the office on February 25, 2021. Based on the information presented, we find that the disclaimer complies with the above-listed requirements of 37 C.F.R. § 1.321(a).

Because the sole claim challenged in the present petition, i.e., claim 64, is disclaimed under 35 U.S.C. § 253(a) in compliance with 37 C.F.R. § 1.321(a), we decline to institute an *inter partes* review. 37 C.F.R. § 42.107(e); see *General Electric Co. v. United Techs. Corp.*, IPR2017-00491, Paper 9 (PTAB July 6, 2017) (precedential) (declining to institute review where all challenged claims are disclaimed under 35 U.S.C. § 253(a)).

### III. CONCLUSION

For the above reasons, we *deny* the Petition and do not institute an *inter partes* review.

#### IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Petition is *denied* and no *inter partes* review is instituted.

IPR2021-00069  
Patent RE47,031 E

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