

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MINERVA SURGICAL, INC.,
Petitioner,

v.

HOLOGIC, INC.,
Patent Owner.

IPR2016-00868
Patent 6,872,183 B2

GRANT OF GOOD CAUSE EXTENSION
35 U.S.C. § 316(a)(11) and 37 C.F.R. § 42.100(c)

Pursuant to 35 U.S.C. § 316(a)(11), “the final determination in an inter partes review [shall] be issued not later than 1 year after the date on which the Director notices the institution of a review under this chapter, except that the Director may, for good cause shown, extend the 1-year period by not more than 6 months” The Director has delegated the authority to extend the one-year period to the Chief Administrative Patent Judge. *See* 37 C.F.R. § 42.100(c). In particular, 37 C.F.R. § 42.100(c) provides:

An *inter partes* review proceeding shall be administered such that pendency before the Board after institution is normally no

more than one year. The time can be extended by up to six months for good cause by the Chief Administrative Judge. . . .

In accordance with 37 C.F.R. § 42.100(c), the Chief Judge has determined that good cause exists to extend the one-year period for issuing a Final Written Decision in the present proceeding.

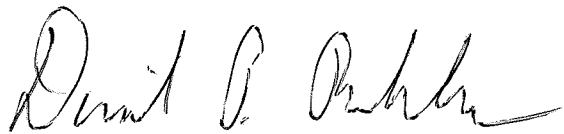
This *inter partes* review includes a Patent Owner's Contingent Motion to Amend (Paper 24), and Petitioner's Opposition to Patent Owner's Contingent Motion to Amend (Paper 33). Subsequent to the filing of those papers, and just two days before the statutory one-year period was set to expire, the U.S. Court of Appeals for the Federal Circuit issued an *en banc* decision in *Aqua Products, Inc. v. Matal*, No. 2015-1177 (Fed. Cir. Oct. 4, 2017).

Aqua Products is a 148-page decision comprising 5 separate opinions. As the lead opinion notes:

We are proceeding without a full court, and those judges who are participating disagree over a host of issues. As frustrating as it is for all who put so much thought and effort into this matter, very little said over the course of the many pages that form the five opinions in this case has precedential weight.

Aqua Prods., slip op. at 65–66. *Aqua Products* affects the burden of proof the Board applies, and may affect the parties' arguments and the Board's analysis of the evidence and arguments presented, with respect to the pending Motion to Amend in this case. Because of the potential impact of *Aqua Products* and limited amount of time for the Board and parties to analyze the guidance provided in *Aqua Products* and apply it to this proceeding, the Chief Judge has determined that good cause exists to extend the one-year period for issuing a Final Written Decision.

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A handwritten signature in cursive script, appearing to read "David P. Ruschke". The signature is written in black ink on a white background.

David P. Ruschke
Chief Administrative Patent Judge