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WASHINGTON, DC 20005

EXAMINER

TURNER, SHARON L

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BECKMAN COULTER, INC.
Requester and Respondent

v.

GEN-PROBE INCORPORATED
Patent Owner and Appellant

Appeal 2016-006954
Reexamination Control 95/002,383
Patent 7,524,652 B2
Technology Center 3900

ORDER REMANDING TO EXAMINER

On May 20, 2015, Patent Owner and Appellant, Gen-Probe Incorporated (“Appellant”), filed a Notice of Appeal in this reexamination. On September 29, 2015, Third Party Requester and Respondent, Beckman Coulter, Inc. (“Respondent”), filed a Corrected Respondent Brief and a petition to waive the page/word limit to the Respondent Brief under 37 CFR §1.943(c). On December 21, 2015, Respondent filed a request for an oral hearing, and on December 29, 2015, Appellant filed a request for an oral hearing. On April 12, 2016, the Board entered a Petition Decision denying Respondent’s petition to waive the page/word limit of the Respondent Brief, and holding the September 29, 2015, Respondent Brief defective. In response, the Requester entered a Corrected Respondent’s Brief on May 11,

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2016. An Appeal Docketing Notice was mailed on July 11, 2016. A Notice of Hearing was mailed on October 4, 2016, which scheduled the oral hearing for November 16, 2016. However, it appears that the May 11, 2016, Corrected Respondent Brief has not yet been considered by the Examiner.

Accordingly, the appeal in this reexamination is dismissed, and the oral hearing for this reexamination, scheduled for November 16, 2016, is cancelled.

Furthermore, this reexamination is remanded to the Central Reexamination Unit (CRU) for consideration of the May 11, 2016, Corrected Respondent Brief and for any further action, as may be appropriate.

If there are any questions pertaining to this Order, please contact the Patent Trial and Appeal Board at 571-272-9797.

peb

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