Trial@uspto.gov
571-272-7822

Paper No. 49
Entered: March 21, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INVUE SECURITY PRODUCTS, INC.
Petitioner

v.

MERCHANDISING TECHNOLOGIES, INC.
Patent Owner

Case IPR2013-00122
Patent 7,909,641 B1

Before JOSIAH C. COCKS, JENNIFER S. BISK, and GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

BRADEN, *Administrative Patent Judge*

JUDGMENT
Request for Adverse Judgment
37 C.F.R. § 42.73(b)

I. INTRODUCTION

On March 19, 2014, Patent Owner, Merchandising Technologies, Inc., (i) withdrew Patent Owner's Motion to Amend Claims (Paper 29), (ii) requested cancellation of claims 1-6 of US Patent No. 7,909,641, which are all of the claims in this *inter partes* review, and (iii) sought entry of adverse judgment. Paper 48.

Under 35 C.F.R. § 42.73(b), a party may request judgment against itself at any time during a proceeding. Furthermore, under 37 C.F.R. § 42.73(b)(2), actions construed as a request for entry of adverse judgment include cancellation of a claim such that the party has no remaining claim in the trial.

Patent Owner has not only requested cancellation of all claims involved in this *inter partes* review, such that after the cancellation it will have no remaining claim in the trial, but also expressly requested entry of adverse judgment. Patent Owner's request to cancel claims 1-6 and request for entry of adverse judgment are granted.

Claims 1-3 of US Patent No. 7,909,641 are the subject of co-pending *ex parte* reexamination 96/000,007. On April 2, 2013, the Board stayed the *ex parte* reexamination proceedings pending the termination or completion of this *inter partes* review. Paper 15. The stay is hereby lifted for the implementation of any necessary action that is consistent with the orders of the Board.

In consideration of the foregoing, it is hereby:

ORDERED that judgment is herein entered against Patent Owner under 37 C.F.R. § 42.73(b);

FURTHER ORDERED that this constitutes a final written decision under 35 U.S.C. § 318(a);

FURTHER ORDERED that the request to cancel claims 1-6 of Patent 7,909,641 is GRANTED;

FURTHER ORDERED that the stay in *ex parte* reexamination 96/000,007 is lifted, so that any necessary action, which is consistent with the Board's orders in *inter partes* review IPR 2013-00122, can be taken;

FURTHER ORDERED that the oral hearing scheduled for March 26, 2014 is CANCELLED; and

FURTHER ORDERED that *inter partes* review captioned IPR2013-00122 be terminated.

Case IPR2013-00122
Patent 7,909,641 B1

For PETITIONER:

Trent A. Kirk
InVue Security Products, Inc.
trentkirk@invuesecurity.com

Christopher Douglas
Allston and Bird, LLP
christopher.douglas@alston.com

Christopher Dremann
Christopher Dremann P.C.
cdremann@ccdpc.com

For PATENT OWNER:

William Geny
Susan Pitchford
Chernoff, Vilhauer, McClung & Stenzel, LLP
bill@chernofflaw.com
sdp@chernofflaw.com