Trials@uspto.gov
571-272-7822

Paper 20
Entered: September 24, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PENTAIR LTD. and PENTAIR WATER POOL AND SPA, INC.,
Petitioner,

v.

HAYWARD INDUSTRIES, INC.,
Patent Owner.

Case IPR2014-00190
Patent 8,281,425 B2

Before JACQUELINE WRIGHT BONILLA, JAMES A. TARTAL, and CARL M. DEFRANCO, *Administrative Patent Judges*.

TARTAL, *Administrative Patent Judge*.

JUDGMENT
Termination of the Proceeding
37 C.F.R. § 42.73

Pentair Ltd. and Pentair Water Pool and Spa, Inc., (collectively, "Petitioner") filed a Petition ("Pet.") requesting an *inter partes* review of claims 3–8 and 10 of U.S. Patent No. 8,281,425 B2 (Ex. 1001, "the '425 patent"). Paper 5. Hayward Industries ("Patent Owner") did not file a preliminary response.[1] The Board granted Petitioner's request to institute *inter partes* review of claims 3–8 and 10 of the '425 patent, and trial was instituted on May 29, 2014. Paper 10.

On August 29, 2014, Patent Owner filed a Request for Adverse Judgment for Abandonment of the Contest Under 37 C.F.R. § 42.73(b)(4) ("Req. for Adverse Judgment"). Paper 19. Under 37 C.F.R. § 42.73(b), a party may request judgment against itself at any time during a proceeding. Actions construed to be a request for adverse judgment include abandonment of the contest. 37 C.F.R. § 42.73(b)(4). Patent Owner acknowledged that, in accordance with its request, all challenged claims (claims 3–8 and 10) of the '425 patent will be cancelled. Req. for Adverse Judgment 2.

Accordingly, it is hereby

ORDERED that Patent Owner's Request for Adverse Judgment for Abandonment of the Contest Under 37 C.F.R. § 42.73(b)(4) with respect to claims 3–8 and 10 of U.S. Patent No. 8,281,425 B2 patent is GRANTED; and,

ORDERED that judgment is entered herein against Patent Owner with respect to claims 3–8 and 10 of U.S. Patent No. 8,281,425 B2.

[1] The Petition originally identified Fail-Safe LLC as the Patent Owner. Papers 1, 5. Subsequently, the '425 patent was assigned to Joseph D. Cohen, who in turn assigned it to Hayward Industries. Papers 7, 9.

PETITIONER:

Raye Daugherty
Joel Austin
QUARLES & BRADY LLP
raye.daugherty@quarles.com
joel.austin@quarles.com

PATENT OWNER:

Steven E. Halpern
Mark E. Nikolsky
McCARTER & ENGLISH, LLP
shalpern@mccarter.com
mnikolsky@mccarter.com