

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YAMAHA CORPORATION OF AMERICA,
Petitioner,

v.

BLACK HILLS MEDIA, LLC,
Patent Owner.

Case IPR2014-00733
Patent 8,458,356 B2

Before BRIAN J. McNAMARA, PETER P. CHEN, and
FRANCES L. IPPOLITO, *Administrative Patent Judges*.

CHEN, *Administrative Patent Judge*.

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

BACKGROUND

On May 6, 2014, Petitioner Yamaha Corporation of America filed a Petition seeking *inter partes* review of claims 1, 23, and 28 of U.S. Patent No. 8,456,356 B2 (“the ‘356 patent”). On November 10, 2014, we instituted *inter partes* review of claims 1, 23, and 28. Paper 7.

Pursuant to the Scheduling Order, on January 30, 2015, Patent Owner filed its Response. Paper 15. Patent Owner did not file a motion to amend. On April 3, 2015, Patent Owner filed a Request for Adverse Judgment, Paper 18, requesting adverse judgment pursuant to 37 C.F.R. § 42.73(b), with respect to claims 1, 23, and 28:

Patent Owner . . . hereby requests that the Board cancel claims 1, 23, and 28 of U.S. Patent No. 8,458,356 (“the ‘356 Patent”). These claims are all claims for which the present *inter partes* review has been instituted. See Decision – Institution of *Inter Partes* Review, Paper 7, pp. 15-16.

In view of the cancellation of all claims remaining in the trial, Patent Owner requests that the Board enter adverse judgment against Patent Owner in this proceeding pursuant to 37 C.F.R. §42.73(b)(2).

Paper 18, 1. Petitioner has not filed any reply to the Patent Owner’s Response.

DISCUSSION

A party may request entry of adverse judgment against itself at any time during a proceeding. See 37 C.F.R. § 42.73(b). Patent Owner has conceded that the requested judgment effectively will cancel the claims identified for trial and moot this proceeding. Paper 18, 1. There is no pending motion to amend claims. Patent Owner also has indicated by email to the Board that Petitioner has no objection to the Request for Adverse

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Judgment. Under these circumstances, the request for entry of adverse judgment is appropriate.

ORDER

It is ORDERED that Patent Owner's request for adverse judgment under 37 C.F.R. § 42.73(b) with respect to claims 1, 23, and 28 of U.S. Patent No. 8,458,356 B2 is GRANTED; and,

ORDERED that judgment is entered herein against Patent Owner with respect to claims 1, 23, and 28 of U.S. Patent No. 8,456,356 B2. Claims 1, 23, and 28 are unpatentable, and shall be cancelled.

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