

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GN RESOUND A/S,
Petitioner,

v.

OTICON A/S,
Patent Owner.

Case IPR2015-00103
Patent 8,300,863 B2

Before MICHELLE R. OSINSKI, NEIL T. POWELL, and
FRANCES L. IPPOLITO, *Administrative Patent Judges*.

IPPOLITO, *Administrative Patent Judge*.

JUDGMENT

Request for Adverse Judgment
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73(b)

INTRODUCTION

Petitioner GN Resound A/S filed a Petition on October 21, 2014, requesting an *inter partes* review of claims 6–10, 14, 15, and 21–24 of U.S. Patent No. 8,300,863 B2 (Ex. 1001, “the ’863 patent”). (Paper 1, “Pet.”). Patent Owner Oticon A/S filed a Preliminary Response to the Petition on January 30, 2015 (Paper 6, “Prelim. Resp.”). On April 29, 2015, we instituted trial on claims 9, 10, 15, and 21–24 of the ’863 patent. Paper 10. Patent Owner now requests that claims 9, 10, 15, and 21–24 of the ’863 patent be cancelled and adverse judgment be entered under 37 C.F.R. § 42.73(b)(2). Paper 18. Petitioner does not oppose Patent Owner’s request.

A patent owner may request judgment against itself “at any time during a proceeding” upon cancellation of the particular claims at issue such that there is “no remaining claim in the trial.” 37 C.F.R. § 42.73(b)(2). Here, Patent Owner has requested cancellation of all the claims on which trial was instituted; hence, no claims will remain for trial. Paper 18. In view of the cancellation of claims 9, 10, 15, and 21–24 of the ’863 patent, the entry of final judgment adverse to Patent Owner is appropriate.

IV. ORDER

Accordingly, it is hereby

ORDERED that Patent Owner’s request for adverse judgment is *granted*;

FURTHER ORDERED that claims 9, 10, 15, and 21–24 of U.S. Patent No. 8,300,863 B2 shall be *cancelled*;

FURTHER ORDERED that judgment against Patent Owner, pursuant to 37 C.F.R. § 42.73(b)(2) is *entered*; and

FURTHER ORDERED that this paper constitutes a Final Written Decision under 35 U.S.C. § 318(a).

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Patent 8,300,863 B2

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