

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BIOMUNE COMPANY,
Petitioner,

v.

MERIAL, UNIVERSITY OF SASKATCHEWAN, and
THE QUEEN'S UNIVERSITY OF BELFAST,
Patent Owner.

Case IPR2015-00254
Patent 6,517,843 B1

Before RAMA G. ELLURU, TINA E. HULSE,
and ROBERT A. POLLOCK, *Administrative Patent Judges*.

POLLOCK, *Administrative Patent Judge*.

JUDGMENT AND FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73(b)

On May 21, 2015, this panel granted Petitioner's Petition to institute an *inter partes* review of claims 1–6 of U.S. Patent No. 6,517,843 B1. Paper 11. On August 13, 2015, Patent Owner filed a single-page Patent Owner Response under 37 C.F.R. § 42.120 “provid[ing] notice that they are abandoning this contest pursuant to 37 C.F.R. § 42.73(b)(4).” Paper 13. On October 27, 2015, counsel for Petitioner telephoned the Board to inquire whether a decision from the Board could be expected based on the Patent Owner's Response and whether some action on the part of the petitioner was required.

A party may request judgment against itself at any time during a proceeding. 37 C.F.R. § 42.73(b). Pursuant to 37 C.F.R. § 42.73(b)(4), “[a]bandonment of the contest” is construed as a request for adverse judgment. Accordingly, we interpret Patent Owner's Response as a request for adverse judgment. Under these circumstances, the entry of judgment adverse to the Patent Owner and cancellation of the claims is appropriate.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner's request for adverse judgment under 37 C.F.R. § 42.73(b) with respect to claims 1–6 of U.S. Patent No. 6,517,843 B1 is GRANTED;

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

FURTHER ORDERED that claims 1–6 of U.S. Patent No. 6,517,843 B1 be CANCELLED.

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Patent 6,517,843 B1

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