

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KAPSCH TRAFFICCOM IVHS INC., KAPSCH TRAFFICCOM IVHS
HOLDING CORP., KAPSCH TRAFFICCOM IVHS TECHNOLOGIES
HOLDING CORP., KAPSCH TRAFFICCOM U.S. CORP., and
KAPSCH TRAFFICCOM HOLDING CORP.,
Petitioner,

v.

NEOLOGY, INC.,
Patent Owner.

Case IPR2015-00808
Patent 6,229,443 B1

Before JUSTIN T. ARBES, GLENN J. PERRY, and
TREVOR M. JEFFERSON, *Administrative Patent Judges*.

PERRY, *Administrative Patent Judge*.

JUDGMENT
Patent Owner Request for Adverse Judgment
37 C.F.R. § 42.73(b)(2)

This case is before the Board on Patent Owner's motion for adverse judgment under 37 C.F.R. § 42.73(b)(2).

Petitioner filed a Petition (Paper 1) requesting *inter partes* review of claims 1–15 of U.S. Patent No. 6,229,443 B1 (“the ’443 patent”). The Board instituted *inter partes* review of all challenged claims on September 11, 2015. Paper 10. Patent Owner filed an “Unopposed Motion for Adverse Judgment Under 37 C.F.R. § 42.73(b)(2)” (“Motion”) on March 7, 2016. Paper 19 (“Mot.”).

Under 37 C.F.R. § 42.73(b), a party may request judgment against itself at any time during a proceeding. We find that Patent Owner’s actions, as set forth in the Motion, constitute “disclaimer of . . . claim[s] such that the party has no remaining claim in the trial,” and we determine based on such disclaimer that Patent Owner has requested adverse judgment under 37 C.F.R. § 42.73(b)(2).

The Motion indicates that on March 7, 2016, Patent Owner filed a Statutory Disclaimer under 37 C.F.R. § 1.321(a), disclaiming claims 1–15 of the ’443 patent, which are all of the challenged claims. That Disclaimer is attached to the motion as “Exhibit A” and is dated March 2, 2016. The Disclaimer appears to be in order. Patent Owner further indicates that its decision to disclaim claims 1–15 is not an “admission regarding the merits of the Petition or Petitioner’s arguments that these claims are invalid and/or that the asserted references disclose, either alone or in combination, all of the limitations of these claims.” Mot. 1.

In view of the disclaimer, there is no further challenge to the claims at issue. We therefore grant the motion and terminate this proceeding.

ORDER

Accordingly, it is hereby

ORDERED that Patent Owner's Unopposed Motion for Adverse Judgment Under 37 C.F.R. § 42.73(b)(2) is GRANTED; and

FURTHER ORDERED that judgment is entered against Patent Owner with respect to claims 1–15 of the '443 patent.

PETITIONER:

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