

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INGURAN, LLC d/b/a SEXING TECHNOLOGIES,
Petitioner,

v.

PREMIUM GENETICS (UK) LTD.,
Patent Owner.

Case IPR2015-01870
Patent 7,355,696 B2

Before KEN B. BARRETT, KRISTEN L. DROESCH, and
TRENTON A. WARD, *Administrative Patent Judges*.

DROESCH, *Administrative Patent Judge*.

JUDGMENT

Adverse Judgment, Final Written Decision
37 C.F.R. § 42.73(b), 35 U.S.C. § 318(a)

We instituted *inter partes* review of claims 1–22 of U.S. Patent No. 7,355,696 B2 (“the ’696 Patent”) on March 14, 2016. Paper 7. On June 30, 2016, Patent Owner filed a motion requesting adverse judgment. Paper 9. Patent Owner states that it filed Reissue Application 15/182,582 on June 14, 2016, and contends all of the claims of the ’696 Patent for which trial was instituted have been cancelled.¹ See Paper 9, 1. Patent Owner expressly requests adverse judgment with respect to all of the claims in the trial. See *id.*; 37 C.F.R. § 42.73(b).

In addition, the due date for filing a Patent Owner response lapsed on June 16, 2016 (*see* Paper 8), and a Patent Owner Response was not filed. We treat the failure to file a Patent Owner response as an abandonment of contest, which we also construe to be a request for adverse judgment. See 37 C.F.R. § 42.73(b)(4).

Under these circumstances entry of judgment against Patent Owner is appropriate.

¹ Patent Owner is mistaken that claims 1–22 of the ’696 Patent have already been cancelled by way of filing an amendment cancelling claims 1–22 in Reissue Application 15/182,582. Cancellation of patent claims in a reissue application does not take effect until issuance of the reissued patent. See 35 U.S.C. § 252 (“The surrender of the original patent shall take effect upon the issue of the reissued patent.”); 37 C.F.R. § 1.178(a) (“The application for reissue of a patent shall constitute an offer to surrender that patent, and the surrender shall take effect upon reissue of the patent. Until a reissue application is granted, the original patent shall remain in effect.”).

Accordingly, it is

ORDERED that Patent Owner's request for adverse judgment under 37 C.F.R. § 42.73(b) is granted hereby;

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

FURTHER ORDERED that claims 1–22 of U.S. Patent No. 7,355,696 B2 be cancelled.²

² See 37 C.F.R. § 42.80 (indicating that after the Board issues a final written decision in an *inter partes* review proceeding, the Office will issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable).

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Patent 7,355,696 B2

PETITIONER:

Kirt S. O'Neill
Daniel L. Moffett
George Andrew Rosbrook

AKIN GUMP STRAUSS HAUER & FELD LLP

koneill@akingump.com
dmoffett@akingump.com
arosbrook@akingump.com

PATENT OWNER:

Jeffrey P. Kushan
Mathew S Jorgenson
Peter S. Choi

SIDLEY AUSTIN LLP

IPRNotices@sidley.com
mjorgenson@sidley.com
peter.choi@sidley.com