

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CAPTIONCALL, L.L.C.,
Petitioner,

v.

ULTRATEC, INC.,
Patent Owner.

Case IPR2015-01886
Patent 7,881,441 B2

Before WILLIAM V. SAINDON, BARBARA A. BENOIT, and
LYNNE E. PETTIGREW, *Administrative Patent Judges*.

PETTIGREW, *Administrative Patent Judge*.

JUDGMENT

Granting Request for Adverse Judgment After Institution of Trial
37 C.F.R. § 42.73(b)

I. BACKGROUND

Petitioner, CaptionCall, L.L.C., filed a Petition for *inter partes* review of claims 1, 3, 6, 9–11, 13, 15, 19–23, 25–27, 34, and 36–38 of U.S. Patent No. 7,881,441 B2 (Ex. 1001, “the ’441 patent”). Paper 1 (“Pet.”). Patent Owner, Ultratec, Inc., did not file a Preliminary Response. On March 11, 2016, we instituted an *inter partes* review of all challenged claims. Paper 17.

On June 3, 2016, Patent Owner notified the Board that it had filed a statutory disclaimer under 37 C.F.R. § 1.321(a) of claims 1, 3, 6, 9–11, 13, 15, 19–23, 25–27, 34, and 36–38 of the ’441 patent, which constitute all of the claims at issue in this *inter partes* review. Paper 37, 2. Patent Owner also filed a copy of the disclaimer. Ex. 2110. Having disclaimed all challenged claims, Patent Owner requests adverse judgment under 37 C.F.R. § 42.73(b). Paper 37, 2.

II. DISCUSSION

A party may request adverse judgment against itself at any time. 37 C.F.R. § 42.73(b). Here, Patent Owner requests adverse judgment because no claims remain in the trial after Patent Owner’s disclaimer of all the claims at issue in this proceeding. Paper 37, 2; *see* 37 C.F.R. § 42.73(b)(2). We grant Patent Owner’s request and enter judgment against Patent Owner under 37 C.F.R. § 42.73(b).

Patent Owner’s Motion to Dismiss the Petition for Failure to Name All Real Parties-in-Interest remains pending. *See* Paper 13; Paper 16 (redacted version). Because we are entering adverse judgment in this proceeding based on Patent Owner’s disclaimer of all challenged claims of the ’441 patent, the pending Motion to Dismiss is dismissed as moot.

Three pending Motions to Seal filed by Patent Owner also are dismissed as moot. *See* Papers 15, 21, 24. In addition, we will expunge from the record the subject papers of the Motions to Seal: Paper 13 (unredacted version of Patent Owner's Motion to Dismiss), Paper 15 (Patent Owner's Motion to Seal), Paper 24 (Patent Owner's Motion to Seal), Paper 26 (unredacted version of Patent Owner's Reply in Support of its Motion to Dismiss), and Exhibits 2086, 2091, 2093, 2094, and 2109.

III. ORDER

Accordingly, it is:

ORDERED that Patent Owner's request for adverse judgment is *granted*, and judgment is entered against Patent Owner under 37 C.F.R. § 42.73(b) with respect to claims 1, 3, 6, 9–11, 13, 15, 19–23, 25–27, 34, and 36–38 of the '441 patent;

FURTHER ORDERED that Patent Owner's Motion to Dismiss the Petition for Failure to Name All Real Parties-in-Interest (Paper 13, Paper 16 (redacted version)) is *dismissed* as moot;

FURTHER ORDERED that Patent Owner's Motions to Seal (Papers 15, 21, and 24) are *dismissed* as moot;

FURTHER ORDERED that Papers 13, 15, 24, and 26 are to be expunged; and

FURTHER ORDERED that Exhibits 2086, 2091, 2093, 2094, and 2109 are to be expunged.

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