

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VALVE CORPORATION,
Petitioner,

v.

TREEHOUSE AVATAR LLC,
Patent Owner.

Case IPR2016-01069
Patent 8,180,858 B2

Before THOMAS L. GIANNETTI, CARL M. DEFRANCO, and
KAMRAN JIVANI, *Administrative Patent Judges*.

JIVANI, *Administrative Patent Judge*.

JUDGMENT

Granting Request for Adverse Judgment After Institution of Trial
37 C.F.R. § 42.73(b)(2)

I. BACKGROUND

Petitioner Valve Corporation requested an *inter partes* review of claims 1–29 of U.S. Patent No. 8,180,858 (“the ’858 patent”). Paper 1 (“Petition” or “Pet.”). Patent Owner Treehouse Avatar LLC filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). On November 23, 2016, we instituted an *inter partes* review claims 9–14 and declined to institute *inter partes* review of claims 1–8 and 15–29. Paper 8.

On June 9, 2017, Patent Owner notified the Board that it filed a statutory disclaimer under 37 C.F.R. § 1.321(a) of claims 9–14 of the ’858 patent, which constitute all of the claims at issue in this *inter partes* review. Paper 20, 2. Patent Owner also filed a copy of the disclaimer. Ex. 2002. Having disclaimed all challenged claims, Patent Owner requests adverse judgment under 37 C.F.R. § 42.73(b). Paper 20, 2. Petitioner does not oppose Patent Owner’s request. *Id.*

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, namely claims 9–14. Paper 20, 2. We grant Patent Owner’s request and enter judgment against Patent Owner under 37 C.F.R. § 42.73(b)(2).

Patent Owner’s Motion to Amend remains pending. Paper 17. Because we enter adverse judgment in this proceeding based on Patent Owner’s disclaimer of all challenged claims of the ’858 patent, the pending Motion to Dismiss is dismissed as moot.

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)(2) with respect to claims 9–14 of the '858 patent; and

FURTHER ORDERED that Patent Owner's Motion to Amend (Paper 17) is *dismissed* as moot.

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