

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KEURIG GREEN MOUNTAIN, INC.,
Petitioner,

v.

TOUCH COFFEE & BEVERAGES, LLC,
Patent Owner.

Case IPR2016-01394
Patent 9,149,151 B2

Before CHRISTOPHER L. CRUMBLEY, CHRISTOPHER M. KAISER,
and MICHELLE N. ANKENBRAND, *Administrative Patent Judges*.

ANKENBRAND, *Administrative Patent Judge*.

JUDGMENT AND FINAL WRITTEN DECISION
Granting Request for Adverse Judgment After Institution of Trial
35 U.S.C. § 318(a); 37 C.F.R. § 42.73(b)

BACKGROUND

On January 4, 2017, we instituted an *inter partes* review of claims 1–3, 5–10, 12–17, and 19–22 (collectively, the “challenged claims”) of U.S. Patent No. 9,149,151 B2 (“the ’151 patent”). Paper 10, 2, 25–26. On March 17, 2017, pursuant to Board authorization, Patent Owner filed a Request for Adverse Judgment, asking the Board to cancel all claims on which trial was instituted. Paper 12 (“Request”). “In view of the cancellation of all claims subject to the current proceeding,” Patent Owner submits that the Request should be granted pursuant to 37 C.F.R. § 42.73(b)(2). *Id.* at 1. Petitioner did not oppose Patent Owner’s Request.

DISCUSSION

A party may request entry of adverse judgment against itself at any time during a proceeding. 37 C.F.R. § 42.73(b). Here, Patent Owner has requested cancellation of the challenged claims, such that Patent Owner has no remaining claim in the trial. *Id.* § 42.73(b)(2). Under these circumstances, the entry of judgment adverse to Patent Owner, as requested, is appropriate.

ORDER

It is, therefore,

ORDERED that Patent Owner’s Request for Adverse Judgment is *granted*;

FURTHER ORDERED that judgment is entered against Patent Owner under 37 C.F.R. § 42.73(a) with respect to claims 1–3, 5–10, 12–17, and 19–22 of the ’151 patent;

FURTHER ORDERED that a certificate cancelling claims 1–3, 5–10, 12–17, and 19–22 of the '151 patent will issue in due course pursuant to 35 U.S.C. § 318(b) and 37 C.F.R. § 42.80; and

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

IPR2016-01394
Patent 9,149,151 B2

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