

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TARSCO BOLTED TANK INC.,  
Petitioner,

v.

TANK CONNECTION, LLC,  
Patent Owner.

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IPR2016-01634  
Patent 9,187,921 B1

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Before MEREDITH C. PETRAVICK, BART A. GERSTENBLITH and  
KEVIN W. CHERRY, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

JUDGMENT AND FINAL WRITTEN DECISION  
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

On August 8, 2017, we entered an Order to Show Cause as to why adverse judgment, pursuant to 37 C.F.R. § 42.73, should not be entered against Patent Owner. Paper 15. The Order to Show Cause set a deadline for Patent Owner to file a paper, demonstrating good cause why adverse judgment should not be entered, no later than ten business days after the date

of the Order to Show Cause. Patent Owner did not file such a paper by the deadline.

“Actions construed to be a request for adverse judgment include: . . . [c]ancellation or disclaimer of a claim such that the party has no remaining claim in the trial.” 37 C.F.R. § 42.73(b)(2). Ex Parte Reexamination Certificate No. 9,187,921 C1, canceling claims 1–11 of the ’921 patent, issued on July 24, 2017. Ex. 3001; see Paper 14 (memorializing a conference call during which Patent Owner indicated that it was allowing the claims to be canceled in the reexamination intentionally). Claims 1–11 are all of the claims of the ’921 patent and all claims at issue in this *inter partes* review. Cancellation of claims 1–11 is construed as a request for adverse judgment.

Additionally, “[a]ctions construed to be a request for adverse judgment include: . . . [a]bandonment of the contest.” 37 C.F.R. § 42.73(b)(4). Patent Owner did not file a Patent Owner’s Response or a Motion to Amend in this *inter partes* review by the May 17, 2017 deadline, set in the Scheduling Order (Paper 13), and did not file a paper in response to the Order to Show Cause by the August 22, 2017 deadline. Patent Owner’s lack of response is consistent with abandonment of the contest. Abandonment of the contest is construed as a request for adverse judgement.

Accordingly, it is

ORDERED that adverse judgment is entered, under 37 C.F.R. § 42.73(b)(2), (4), against Patent Owner with respect to claims 1–11 of U.S. Patent No. 9,187,921 B1; and

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

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