

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

ANDREA ELECTRONICS CORP.,
Patent Owner.

Case IPR2017-00628 (Patent 6,049,607)
Case IPR2017-00732 (Patent 6,377,637 B1)¹

Before STEPHEN C. SIU, MICHAEL R. ZECHER, and
JEREMY M. PLENZLER, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

JUDGMENT

Granting Patent Owner's Request for Adverse Judgment
37 C.F.R. § 42.73(b)

¹ This Order addresses issues that are identical in both cases. We, therefore, exercise our discretion to issue one Order to be filed in each case.

IPR2017-00628 (Patent 6,049,607)
IPR2017-00732 (Patent 6,377,637 B1)

In *Apple, Inc. v. Andrea Electronics Corp.*, Case IPR2017-00628, Petitioner, Apple, Inc., filed a Petition for *inter partes* review of claims 1 and 25 of U.S. Patent No. 6,049,607 (“the ’607 patent”). IPR2017-00628, Paper 1. Patent Owner, Andrea Electronics Corp., did not file a Preliminary Response. On July 24, 2017, we instituted an *inter partes* review of all of the challenged claims. IPR2017-00628, Paper 6. On November 7, 2017, Patent Owner filed “Patent Owner’s Request for Adverse Judgment Under 37 C.F.R. 42.73(b),” asking the Board to cancel claims 1 and 25 of the ’607 patent, which constitute all of the claims at issue in IPR2017-00628. IPR2017-00628, Paper 10.

In *Apple, Inc. v. Andrea Electronics Corp.*, Case IPR2017-00732, Petitioner, Apple, Inc., filed a Petition for *inter partes* review of claims 1–14 of U.S. Patent No. 6,377,637 B1 (“the ’637 patent”). IPR2017-00732, Paper 1. Patent Owner, Andrea Electronics Corp., did not file a Preliminary Response. On July 24, 2017, we instituted an *inter partes* review of all of the challenged claims. IPR2017-00732, Paper 6. On November 7, 2017, Patent Owner filed “Patent Owner’s Request for Adverse Judgment Under 37 C.F.R. 42.73(b),” asking the Board to cancel claims 1–14 of the ’637 patent, which constitute all of the claims at issue in IPR2017-00732. IPR2017-00732, Paper 10.

A party may request adverse judgment against itself at any time. 37 C.F.R. § 42.73(b). In IPR2017-00628 and IPR2017-00732, Patent Owner requests adverse judgment and the cancellation of all of the claims on which *inter partes* review was instituted in each of the respective matters. After the cancellation of the specified claims of the ’607 patent and the ’637 patent, no claims would remain in either *inter partes* review. Based on these

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particular circumstances, we grant Patent Owner's requests and enter judgment in IPR2017-00628 and IPR2017-00732 against Patent Owner under 37 C.F.R. § 42.73(b).

ORDER

Accordingly, it is:

ORDERED that Patent Owner's request for adverse judgment in IPR2017-00628 is granted, and judgment is entered against Patent Owner in IPR2017-00628 under 37 C.F.R. § 42.73(b) with respect to claims 1 and 25 of the '607 patent.

FURTHER ORDERED that Patent Owner's request for adverse judgment in IPR2017-00732 is granted, and judgment is entered against Patent Owner in IPR2017-00732 under 37 C.F.R. § 42.73(b) with respect to claims 1–14 of the '637 patent.

FURTHER ORDERED that claims 1 and 25 of U.S. Patent No. 6,049,607 and claims 1–14 of U.S. Patent 6,377,637 B1 are CANCELLED.²

FURTHER ORDERED that a copy of this Decision is to be entered into the file of Cases IPR2017-00628 and IPR2017-00732.

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

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