

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BESTWAY (USA), INC.,
Petitioner,

v.

INTEX MARKETING LTD.,
Patent Owner.

Case IPR2017-01397
Patent 8,562,773 B2

Before KEN B. BARRETT, FRANCES L. IPPOLITO, and
KEVIN W. CHERRY, *Administrative Patent Judges*.

BARRETT, *Administrative Patent Judge*.

JUDGMENT
Request for Adverse Judgment
37 C.F.R. § 42.73

INTRODUCTION

Bestway (USA), Inc. (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1–5 of U.S. Patent No. 8,562,773 B2 (“the ’773 patent,” Ex. 1001). Paper 1. Intex Marketing Ltd. (“Patent Owner”) filed a Preliminary Response to the Petition. Paper 7. On December 4, 2017, we instituted an *inter partes* review of claims 1, 3, and 4 of the ’773 patent. Paper 9, 25. On February 16, 2018, Patent Owner filed a Request for Adverse Judgment, Paper 11, requesting adverse judgment pursuant to 37 C.F.R. § 42.73(b), with respect to the claims that are the subject of this proceeding.

DISCUSSION

A party may request entry of adverse judgment against itself at any time during a proceeding. *See* 37 C.F.R. § 42.73(b). In its request, Patent Owner “requests judgment against itself and asks that the Board cancel the instituted claims (claims 1, 3, and 4) and enter adverse judgment against it.” Paper 11, 2. Petitioner indicated in a February 26, 2018, email to the Board that it does not oppose Patent Owner’s request.

Under these circumstances, we determine that the grant of the request for entry of adverse judgment is appropriate.

ORDER

It is ORDERED that Patent Owner’s Request for Adverse Judgment under 37 C.F.R. § 42.73(b) with respect to claims 1, 3, and 4 of U.S. Patent No. 8,562,773 B2 is GRANTED; and,

FURTHER ORDERED that judgment is entered herein against Patent Owner with respect to claims 1, 3, and 4 of U.S. Patent No. 8,562,773 B2. Claims 1, 3, and 4 shall be cancelled.

IPR2017-01397
Patent 8,562,773 B2

For PETITIONER:

Michael P. Chu
Brian A. Jones
MCDERMOTT WILL & EMERY
mchu@mwe.com
bajones@mwe.com

For PATENT OWNER:

R. Trevor Carter
Andrew M. McCoy
FAEGRE BAKER DANIELS
trevor.carter@faegrebd.com
andrew.mccoy.ptab@faegrebd.com