

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

STAAR SURGICAL COMPANY,
Petitioner,

v.

BRIEN HOLDEN VISION INSTITUTE,
Patent Owner.

Case IPR2018-00665
Patent 9,195,074 B2

Before JEFFREY W. ABRAHAM, SHEILA F. McSHANE, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

DOUGAL, *Administrative Patent Judge*.

JUDGMENT

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

STAAR Surgical Company (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1–20 of U.S. Patent No. 9,195,074 B2 (Ex. 1001, “the ’074 patent”) pursuant to 35 U.S.C. §§ 311–319. Paper 1 (“Pet.”). Brien Holden Vision Institute (“Patent Owner”) did not file a Preliminary Response. On August 27, 2018, we instituted trial as to claims 1–20 of the ’074 patent. Paper 12.

On November 27, 2018, Patent Owner filed a “Disclaimer in Patent under 37 CFR 1.321(a)” with the Patent Office disclaiming claims 1–20 of the ’074 patent. Ex. 2001. Patent Owner’s disclaimer of claims 1–20 of the ’074 patent disclaims all claims for which trial was instituted such that there are no remaining claims in the trial. On November 27, 2018, Patent Owner also filed a “Notice of Filing of Disclaimer of Claims in a Patent under 37 C.F.R. § 1.321(a) and Request for Adverse Judgment.” Paper 14. Under these circumstances, with no claims remaining in the *inter partes* review, we determine that it is appropriate to grant Patent Owner’s request and enter judgment in this case against Patent Owner.

Accordingly, it is

ORDERED that Patent Owner’s request for adverse judgment is granted;

FURTHER ORDERED that judgment is herein entered against Patent Owner with respect to claims 1–20 of the ’074 patent;

FURTHER ORDERED that claims 1–20 of the ’074 patent are herein cancelled; and

FURTHER ORDERED that all scheduled Due Dates (Paper 13) are vacated and the hearing scheduled for May 16, 2019 is cancelled.

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