

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.
Petitioner,

v.

MOAEC TECHNOLOGIES, LLC,
Patent Owner.

Case IPR2018-01758
Patent 6,232,539 C1

Before JEFFREY W. ABRAHAM, CHRISTA P. ZADO, and
AVELYN M. ROSS, *Administrative Patent Judges*.

ROSS, *Administrative Patent Judge*.

JUDGMENT
Granting Request for Adverse Judgment
After Institution of Trial
37 C.F.R. § 42.73(b)

I. INTRODUCTION

Unified Patents Inc. (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1–6, 9, 14–16, 19, 21, and 24 of U.S. Patent No. 6,232,539 C1 (Ex. 1001, “the ’539 patent”). Paper 2. MOAEC Technologies, LLC (“Patent Owner”) filed a Preliminary Response to the Petition. Paper 8. We issued a Decision to Institute an *inter partes* review of claims 1–6, 9, 14–16, 19, 21, and 24 of the ’539 patent as unpatentable under 35 U.S.C. § 103 over Nathan and Iki, and separately, Leeke and Corwin. Paper 12, 6.

On October 11, 2019, Patent Owner contacted the Board via email “seeking request [for] adverse judgment pursuant to 37 C.F.R. §42.73(b), based on its imminent disclaimer under 37 C.F.R. [1.]321(a) of all of the patent claims involved in the IPR.” Ex. 3002, 2. Patent Owner stated that “Petitioner has indicated that they do not oppose the request.” *Id.* Shortly thereafter, on October 16, 2019, Patent Owner informed the Board that “Patent Owner has now filed its statutory disclaimer” and submitted via email a copy of the disclaimer under 37 C.F.R. 1.321(a) (Ex. 3003), a receipt of payment of fees (Ex. 3004), and an updated power of attorney (Ex. 3005). Ex. 3002, 1.

II. DISCUSSION

A party may request judgment against itself at any time during a proceeding. 37 C.F.R. § 42.73(b). Here, Patent Owner has expressly requested judgment against itself. Ex. 3002, 2. Furthermore, under our Rules, actions construed as a request for entry of adverse judgment include:

- (1) Disclaimer of the involved application or patent;

- (2) Cancellation or disclaimer of a claim such that the party has no remaining claim in the trial;
- (3) Concession of unpatentability or derivation of the contested subject matter; and
- (4) Abandonment of the contest.

37 C.F.R. § 42.73(b). Here, Patent Owner has disclaimed all challenged claims for which trial was instituted such that Patent Owner has no remaining claim in the trial. *Compare* Ex. 3003, 1 with Paper 12, 22. We construe this action as a request for entry of adverse judgment. 37 C.F.R. § 42.73(b). Thus, entry of judgment adverse to the Patent Owner is appropriate.

III. CONCLUSION

Having reviewed Patent Owner's request, we determine that entry of judgment against Patent Owner with respect to claims 1–6, 9, 14–16, 19, 21, and 24 of the '539 patent is appropriate. Because no challenged claim remains in the trial, we enter judgment and terminate the proceeding. 37 C.F.R. § 42.73.

IV. ORDER

Accordingly, it is:

ORDERED that adverse judgment against Patent Owner in this proceeding is entered under 37 C.F.R. § 42.73(b)(2) and (4); and

FURTHER ORDERED that all scheduled Due Dates (*see* Paper 13) are vacated; and

FURTHER ORDERED that this constitutes a Final Written Decision under 35 U.S.C. § 318(a).

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