

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MUELLER SYSTEMS, LLC,
Petitioner,

v.

REIN TECH, INC.,
Patent Owner.

IPR2020-00098
Patent 9,297,150 B2

Before CARL M. DEFRANCO JR., TIMOTHY J. GOODSON, and
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

DEFRANCO, *Administrative Patent Judge*.

JUDGMENT

Granting Request for Adverse Judgment Post-Institution
37 C.F.R. § 42.73(b)
and

Lifting Stay of *Ex Parte* Reexamination Control No. 90/014,354
35 U.S.C. § 315(d); 37 C.F.R. § 42.122(a)

Rein Tech, Inc. (“Rein Tech”) is the owner of U.S. Patent No.
9,297,150 B2 (“the ’150 patent”). On October 29, 2019, Mueller Systems,
Inc. (“Mueller”) filed a Petition for *inter partes* review of claims 8, 12, 15,

17, 20, 21, 23, and 26 of the '150 patent.¹ Paper 3 (“Pet.”). On May 12, 2020, we instituted *inter partes* review as to all the claims challenged in the Petition. See Paper 11. Upon institution of trial, we stayed an *ex parte* reexamination of the '150 patent filed by Rein Tech—*Ex Parte* Reexamination Control No. 90/014,354—pending resolution or termination of this *inter partes* review proceeding. See Paper 13 (finding good cause exists to stay the parallel reexamination proceeding).

Rein Tech now requests that adverse judgment be entered “under 37 C.F.R. § 42.73(b)(2)” with respect to “the claims at issue in this proceeding only.” Paper 14 (“Request for Adverse Judgment”).² The claims at issue in this proceeding are the same ones challenged in the Petition—claims 8, 12, 15, 17, 20, 21, 23, and 26 of the '150 patent.

Pursuant to the provision under which Rein Tech requests adverse judgment—37 C.F.R. § 42.73(b)(2)—a patent owner may request judgment against itself “at any time during a proceeding” based on “[c]ancellation or disclaimer of a claim such that the party has no remaining claim in the trial.” Here, we understand Rein Tech’s request for adverse judgment to include a request for cancellation of all the challenged patent claims such that no claims remain for trial. See Paper 14. Because no patent claims will remain for trial, the entry of final judgment adverse to Rein Tech is appropriate. Also, because our entry of adverse judgment terminates this proceeding, we lift the stay of the concurrent *ex parte* reexamination of the '150 patent. In

¹ Mueller’s parent company, Mueller Water Products, Inc., is also identified as a real party-in-interest. Pet. 2.

² Mueller did not file an opposition to Rein Tech’s request, and the deadline for any opposition has passed.

that regard, we remind Rein Tech that “[a] patent applicant or owner is precluded from taking action inconsistent with the adverse judgment, including obtaining in any patent . . . [a] claim that is not patentably distinct from a finally refused or canceled claim.” 37 C.F.R. § 42.73(d)(3).

ORDER

Accordingly, it is:

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

FURTHER ORDERED that judgment against Rein Tech, pursuant to 37 C.F.R. § 42.73(b)(2), is *entered*;

FURTHER ORDERED that claims 8, 12, 15, 17, 20, 21, 23, and 26 of U.S. Patent No. 9,297,150 B2 are *cancelled*;

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

FURTHER ORDERED that the stay of Reexamination Control No. 90/014,354 is *lifted*;

FURTHER ORDERED that, no later than one week after entry of this Order, Rein Tech shall file a notice and copy of this Judgment in the files of *Ex Parte* Reexamination Control No. 90/014,354, as well as the files of any pending applications or other proceedings or actions involving U.S. Patent No. 9,297,150 B2; and

FURTHER ORDERED that, pursuant to 37 C.F.R. § 42.73(d)(3), Rein Tech shall not take any action inconsistent with this Judgment, including obtaining or maintaining any patent claim that is not patentably distinct from the cancelled claims in this proceeding.

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Patent 9,297,150 B2

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