

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MUELLER SYSTEMS, LLC,
Petitioner,

v.

REIN TECH, INC.,
Patent Owner.

IPR2020-00100
Patent 9,749,792 B2

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

GOODSON, *Administrative Patent Judge*.

JUDGMENT

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

Lifting Stay of *Ex Parte* Reexamination Control No. 90/014,355
35 U.S.C. § 315(d); 37 C.F.R. § 42.122(a)

Petitioner filed a petition seeking *inter partes* review of claims 1–5, 12, 14, 17, 19, 22, 23, and 27 of U.S. Patent No. 9,749,792 B2 (“the ’792 patent”). *See* Paper 2, 1. We instituted trial on all challenged claims. *See*

Paper 9, 36. Soon after our Decision on Institution, we entered an Order Staying Concurrent *Ex Parte* Reexamination that stayed Reexamination Control No. 90/014,355 pending the termination or completion of the present *inter partes* review proceeding. *See* Paper 11, 6–7. Patent Owner then filed a Request for Adverse Judgment, in which it “requests entry of adverse judgment in this IPR under 37 C.F.R. § 42.73(b)(2).” *See* Paper 14, 1.¹ Petitioner has not filed an opposition to Patent Owner’s Request for Adverse Judgment and the deadline for any such opposition has passed.

Our rules permit a patent owner to “request judgment against itself at any time during a proceeding.” 37 C.F.R. § 42.73(b). The particular provision under which Patent Owner requests adverse judgment provides that requests for adverse judgment include “[c]ancellation or disclaimer of a claim such that the party has no remaining claim in the trial.” 37 C.F.R. § 42.73(b)(2). Patent Owner’s Request for Adverse Judgment thus constitutes a cancellation of all claims challenged in the Petition, leaving no claims remaining for trial.

We grant Patent Owner’s Request for Adverse Judgment. We note that adverse judgment brings with it certain consequences that are specified in the rules governing these proceedings. Among those consequences is that a patent 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). Our entry of adverse judgment brings about the conclusion of

¹ Patent Owner filed what appears to be a duplicate of its Request for Adverse Judgment in Paper 15.

this proceeding, making it appropriate to lift the stay of the concurrent *ex parte* reexamination.

ORDER

In consideration of the foregoing, it is hereby:

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

FURTHER ORDERED that claims 1–5, 12, 14, 17, 19, 22, 23, and 27 of U.S. Patent No. 9,749,792 B2 are *cancelled*;

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

FURTHER ORDERED that the stay of Reexamination Control No. 90/014,355 is *lifted*;

FURTHER ORDERED that, no later than one week after entry of this Judgment, Patent Owner shall file a copy of this Judgment in Reexamination Control No. 90/014,355; and

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

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Patent 9,749,792 B2

FOR PETITIONER:

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