

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM, INC.,
Petitioner,

v.

HAMMOND DEVELOPMENT INTERNATIONAL, INC.,
Patent Owner.

IPR2020-00460
Patent 9,264,483 B2

Before MICHELLE N. WORMMEESTER, AMBER L. HAGY, and
KRISTI L. R. SAWERT, *Administrative Patent Judges*.

HAGY, *Administrative Patent Judge*.

JUDGMENT

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

I. INTRODUCTION

Amazon.com, Inc. (“Petitioner”) filed a petition for *inter partes* review (Paper 2) challenging claims 1–28 of U.S. Patent No. 9,264,483 B2 (Ex. 1001, the “’483 patent”). *See* 35 U.S.C. § 311. Hammond Development International, Inc. (“Patent Owner”) waived filing a preliminary response. Paper 6. On July 31, 2020, we granted institution of *inter partes* review. Paper 11.

On April 29, 2021, the Board held a conference call with the parties to discuss Patent Owner’s expressed intention to file a request for adverse judgment. A transcript of the call has been entered into the record as Exhibit 1104. Later that day, with Board authorization, Patent Owner filed a Request for Adverse Judgment Pursuant to 37 C.F.R. § 42.73. Paper 30 (“Request”). Meanwhile, the Board advised the parties that the hearing, scheduled for May 5, 2021 (Paper 12, 10), would be canceled. Paper 29, 3.

Patent Owner’s Request states that “[o]n April 12, 2021, the Board entered a Final Written Decision in IPR2020-00020, finding claims 1–10, 12–18, and 20–28 of U.S. Patent No. 9,264,483 to be unpatentable. In view of this Final Written Decision, pursuant to 37 C.F.R. § 42.73(b)(4), Patent Owner . . . hereby requests that the Board enter an adverse judgment in this case with respect to claims 1–28 of U.S. Patent No. 9,264,483.” Request, 1 (footnote omitted). Patent Owner further states that it filed a reissue application on April 21, 2021 (Appl. No. 17/238,834), and represents that “[t]he claims at issue in the instant proceeding are the same claims at issue in the reissue application.” *Id.*

Petitioner filed a Response, stating that it “does not oppose Patent Owner’s request for adverse judgment.” Paper 32, 1. Petitioner added that

it “believes that a decision addressing the merits of the obviousness analysis would be worthwhile, . . . [but] Petitioner does not oppose Patent Owner’s request for adverse judgment on that basis.” *Id.*

II. DISCUSSION

“A party may request judgment against itself at any time during a proceeding.” 37 C.F.R. § 42.73(b) (2019). Patent Owner has so requested and Petitioner does not oppose. With regard to Petitioner’s statement that a decision on the merits would be “worthwhile,” we decline Petitioner’s invitation to provide independent reasoning for the unpatentability of the claims at issue apart from Patent Owner’s abandonment of the contest.

Accordingly, on the record before us in which Patent Owner has abandoned the contest and Petitioner has stated it does not oppose Patent Owner’s Request, we enter adverse judgment against Patent Owner pursuant to 37 C.F.R. § 42.73(b) in the above-identified proceeding.

III. ORDER

Accordingly, it is:

ORDERED that Patent Owner’s Request for Adverse Judgment pursuant to 37 C.F.R. § 42.73(b)(4) is *granted*;

FURTHER ORDERED that adverse judgment against Patent Owner is entered under 37 C.F.R. § 42.73(b)(4) cancelling claims 1–28 of U.S. Patent No. 9,264,483 B2;

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

FURTHER ORDERED that Patent Owner shall file a notice and copy of this judgment in the files of any proceeding or action involving the ’483 patent; and

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

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