

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TRIENDA HOLDINGS, L.L.C.,
Petitioner,

v.

DESGAGNÉ, BROWN ET ASSOCIÉS INC.,
Patent Owner.

IPR2021-01295
Patent 10,570,276 B2

Before WESLEY B. DERRICK, JEFFREY W. ABRAHAM, and
JAMES J. MAYBERRY, *Administrative Patent Judges*.

MAYBERRY, *Administrative Patent Judge*.

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

Trienda Holdings, L.L.C., (“Petitioner”), filed a Petition (“Pet.”) requesting *inter partes* review of claims 1–15 (the “Challenged Claims”) of U.S. Patent No. 10,570,276 B2 (Ex. 1001, “the ’276 patent”). Paper 1. Desgagné, Brown et Associés Inc. (“Patent Owner”) filed a Preliminary Response (“Prelim. Resp.”) to the Petition. Paper 7. With our authorization, Petitioner filed a Preliminary Reply (Paper 8, “Prelim. Reply”) and Patent Owner filed a Preliminary Sur-reply (Paper 9, “Prelim. Sur-reply”). We instituted trial on January 25, 2022. Paper 10.

On April 26, 2022, Patent Owner filed a paper stating that “it will not further participate in this proceeding.” Paper 13, 1.

Our rules provide that “[a] party may request judgment against itself at any time during a proceeding.” 37 C.F.R. § 42.73(b) (2021). Moreover, pursuant to our rules, “[a]ctions construed to be a request for adverse judgment include . . . [a]bandonment of the contest.” *Id.* § 42.73(b)(4). We consider Patent Owner’s statement that it will not further participate in this proceeding to constitute an abandonment of the contest, and, therefore, a request for judgment against it, which we grant. Also, “[a] patent applicant or owner is precluded from taking action inconsistent with the adverse judgment, including obtaining in any patent: (i) A claim that is not patentably distinct from a finally refused or canceled claim.” 37 C.F.R. § 42.73(d)(3).

Although we instituted a trial, we have not yet decided the merits of this proceeding. Accordingly, we enter adverse judgment against Patent Owner pursuant to 37 C.F.R. § 42.73(b), and terminate the trial pursuant to 37 C.F.R. § 42.72.

In consideration of the foregoing, it is hereby:

ORDERED that, pursuant to 37 C.F.R. §42.73(b), adverse judgment is entered against Patent Owner with respect to claims 1–15 of U.S. Patent No. 10,570,276 B2; and

FURTHER ORDERED that this proceeding is terminated and all scheduled Due Dates (*see* Paper 11) are vacated.

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Patent 10,570,276 B2

For PETITIONER:

Johanna Wilbert
Michael Piery
QUARLES & BRADY LLP
johanna.wilbert@quarles.com
michael.piery@quarles.com

For PATENT OWNER:

Scott Zingerman
Paul Rossler
GABLEGOTWALS
szingerman@gablelaw.com
prossler@gablelaw.com