

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DEVELOPMENTAL TECHNOLOGIES, LLC,
Petitioner,

v.

E. M. P. ENTERPRISES, INC.,
Patent Owner.

Case IPR2021-01534
Patent 10,091,956 B2

Before JAMES A. TARTAL, RICHARD H. MARSCHALL, and
MATTHEW S. MEYERS, *Administrative Patent Judges*.

MARSCHALL, *Administrative Patent Judge*.

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

Developmental Technologies, LLC (“Petitioner”) filed a Petition requesting *inter partes* review of all claims, i.e., claims 1–18, of U.S. Patent No. 10,091,956 B2 (Ex. 1001, “the ’956 patent”). Paper 2. On June 1, 2021, we instituted an *inter partes* review of claims 1–18 in the ’956 patent based on all grounds presented in the Petition. Paper 17.

On August 22, 2022, E. M. P. Enterprises, Inc. (“Patent Owner”) filed a Patent Owner Response and Request for Adverse Judgment. Paper 20. Patent Owner states that it “believes the claims are patentable and attempted to negotiate an amicable resolution up to the due date,” but that “[t]hose attempts were unsuccessful, so the Patent Owner filed a statutory disclaimer (Ex. 2003) and requests adverse judgment.” *Id.* at 1. In the statutory disclaimer, Patent Owner asserts that it has “100% interest as assignee of record” and that it disclaims claims 1–18 of the ’956 patent. Ex. 2003, 1.

The Board’s rules provide that “[a] party may request judgment against itself at any time during a proceeding.” 37 C.F.R. § 42.73(b). In addition, “[a]ctions construed to be a request for adverse judgment include . . . disclaimer of a claim such that the party has no remaining claim in the trial.” 37 C.F.R. § 42.73(b)(2). Because Patent Owner requests adverse judgment and disclaimed all claims of the ’956 patent, we grant Patent Owner’s request for adverse judgment.

ORDER

Accordingly, it is

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

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