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Paper 9
Entered: June 24, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SYMRISE AG and SYMRISE INC.,
Petitioner,

v.

INOLEX INVESTMENT CORPORATION,
Patent Owner.

IPR2023-01439
Patent 10,882,803 B2

Before ULRIKE W. JENKS, TINA E. HULSE, and
ROBERT A. POLLOCK, *Administrative Patent Judges*.

HULSE, *Administrative Patent Judge*.

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

Symrise AG and Symrise Inc. (collectively, "Petitioner") filed a Petition requesting an *inter partes* review of claims 1–7, 9–11, 24–26, 28, 29, 35, and 36 of U.S. Patent No. 10,882,803 B2 ("the '803 Patent"). Paper 3 ("Pet."). Inolex Investment Corp. ("Patent Owner") did not file a Preliminary Response to the Petition. We determined that Petitioner had shown a reasonable likelihood of prevailing with respect to at least one challenged claim of the '803 Patent and instituted *inter partes* review of all challenged claims on all asserted grounds. Paper 6.

After institution, on June 21, 2024, Patent Owner informed the Board that it filed a Disclaimer under 37 C.F.R. § 1.321(a) with the Office, disclaiming claims 1–7, 9–11, 24–26, 28, 29, 35, and 36 of the '803 Patent. Ex. 3002 (attaching the as-filed Disclaimer). Because no challenged claims remain, Patent Owner requested termination of this proceeding. *Id.* Petitioner responded to Patent Owner's e-mail, requesting that the Board enter an adverse judgment in light of Patent Owner's disclaimer of all challenged claims. Ex. 3003 (citing 37 C.F.R. § 42.73(b)(2)).

Under 37 C.F.R. § 42.73(b), a party may request adverse judgment against itself at any time during a proceeding. The Board construes a "[c]ancellation or disclaimer of a claim such that the party has no remaining claim in the trial" as a request for adverse judgment. *See* 37 C.F.R. § 42.73(b)(2).

Here, we instituted *inter partes* review of claims 1–7, 9–11, 24–26, 28, 29, 35, and 36 of the '803 Patent, and Patent Owner has statutorily disclaimed each of those claims. *See* Ex. 3002. Accordingly, we consider Patent Owner's disclaimer of the challenged claims as a request for adverse judgment, and we grant that request.

ORDER

In consideration of the foregoing, it is hereby:

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

FURTHER ORDERED that adverse judgment is hereby *entered* against Patent Owner pursuant to 37 C.F.R. § 42.73(b)(2) with respect to claims 1–7, 9–11, 24–26, 28, 29, 35, and 36 of U.S. Patent No. 10,882,803 B2.

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