

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GENE COMPANY PTY LTD,  
Petitioner,

v.

THE TRUSTEES OF COLUMBIA UNIVERSITY  
IN THE CITY OF NEW YORK,  
Patent Owner.

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IPR2024-00312  
Patent 9,486,432 B2

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Before ZHENYU YANG, TINA E. HULSE, and TAWEN CHANG,  
*Administrative Patent Judges.*

HULSE, *Administrative Patent Judge.*

JUDGMENT

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

Gene Company Pty Ltd (collectively, “Petitioner”) filed a Petition requesting an *inter partes* review of 1–28 of U.S. Patent No. 9,486,432 B2 (Ex. 1001, “the ’432 Patent”). Paper 2 (“Pet.”). The Trustees of Columbia University in the City of New York (“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 ’432 Patent and instituted an *inter partes* review of all challenged claims on all asserted grounds. Paper 10.

After institution, Patent Owner did not file a Patent Owner Response, which was due on September 23, 2024. The Board e-mailed Patent Owner on September 27, 2024, noting the Consolidated Trial Practice Guide (“CTPG”) states, “[w]here the patent owner elects not to file a response, the patent owner will arrange for a conference call with the Board to discuss whether or not the patent owner will file a request for adverse judgment.” Ex. 3001, 2 (citing CTPG 66 (citing 37 C.F.R. § 42.73(b))). Patent Owner then informed the Board that it “has abandoned the contest in IPR2024-00312.” *Id.* at 1.

Under 37 C.F.R. § 42.73(b), a party may request adverse judgment against itself at any time during a proceeding. “Abandonment of the contest” is considered to be a request for adverse judgment. 37 C.F.R. § 42.73(b)(4).

Here, we instituted an *inter partes* review of claims 1–28 of the ’432 Patent, and Patent Owner has abandoned the contest in this proceeding. Accordingly, we consider Patent Owner’s abandonment of the contest 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 1–28 of U.S. Patent No. 9,486,432 B2.

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Patent 9,486,432 B2

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