

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ENCUBE ETHICALS PTV. LTD.,
Petitioner,

v.

DERMAVANT SCIENCES GMBH,
Patent Owner.

IPR2024-00834
Patent 11,590,088 B2

Before ROBERT A. POLLOCK, TAWEN CHANG, and
TIMOTHY G. MAJORS, *Administrative Patent Judges*.

CHANG, *Administrative Patent Judge*.

JUDGMENT

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

Encube Ethicals Ptv. Ltd. (“Petitioner”) filed a Petition to institute an *inter partes* review of claims 1–4, 6–10, 16, 18, 21, and 22 of U.S. Patent No. 11,590,088 B2 (Ex. 1001, “the ’088 patent”) on April 23, 2024.

Paper 1. Dermavant Sciences GmbH (“Patent Owner”), filed a Preliminary Response on August 13, 2024. Paper 6. The parties further submitted an authorized Reply and Sur-Reply to the Preliminary Response. Papers 7, 8; Ex. 3001. On November 8, 2024, we granted the Petition and instituted an *inter partes* review. Paper 9.

On February 6, 2025, Patent Owner filed Patent Owner’s Motion to Terminate Proceeding and Parties’ Joint Motion for Entry of Adverse Judgment (collectively “Motion”). The parties jointly request that the Board enter adverse judgment in light of the disclaimer filed by Patent Owner disclaiming all challenged claims. Mot. 1 (citing 37 C.F.R. § 42.73(b)(2)). The Motion attaches as an exhibit a disclaimer under 37 C.F.R. § 1.321(a), filed January 28, 2025, of claims 1–4, 6–10, 16, 18, 21, and 22 of the ’088 patent, which constitute all of the claims challenged in the *inter partes* review. Ex. 2001; Paper 1, 3.

Petitioner states in the Motion that it does not join Patent Owner’s Motion to Terminate Proceeding because it “understands that entry of adverse judgment as to all challenged claims constitutes a Final Written Decision under 35 U.S.C. § 318(a) and ends the proceeding.” Mot. 1, n.1. Petitioner clarifies that “there has not been any settlement between the parties and Petitioner opposes any resolution of this proceeding other than via entry of adverse judgment that constitutes a Final Written Decision under 35 U.S.C. § 318(a).” *Id.*

We understand, based on the Motion as well as the conference call held between the Board and parties on January 31, 2025, that Patent Owner does not oppose entry of adverse judgment against it and does not seek to resolve the proceeding on any basis other than such entry. Ex. 3005.

Accordingly, we grant the Parties' Joint Motion for Entry of Adverse Judgment. This Adverse Judgment is sufficient to dispose of this proceeding and Patent Owner's Motion to Terminate is denied as moot.¹

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Parties' Joint Motion for Entry of Adverse Judgment is *granted*;

FURTHER ORDERED that adverse judgment is hereby *entered* against Patent Owner pursuant to 37 C.F.R. § 42.73(b)(2) as to claims 1–4, 6–10, 16, 18, 21, and 22 of U.S. Patent No. 11,590,088 B2; and

FURTHER ORDERED that Patent Owner's Motion to Terminate is denied as moot.

¹ This entry of adverse judgment should not be construed as the panel's agreement or disagreement with Petitioner's assertion that such judgment constitutes a Final Written Decision under 35 U.S.C. § 318(a). However, we point the parties to 37 C.F.R. § 42.73, which states in relevant parts that "[a] judgment, except in the case of a termination, disposes of all issues that were, or by motion reasonably could have been, raised and decided," and "[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(a), 42.73(d)(3)(i).

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