

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ABBOTT LABORATORIES,
Petitioner,

v.

NEWTONOID TECHNOLOGIES, L.L.C.,
Patent Owner.

IPR2024-00932
Patent 11,392,818 B2

Before CHRISTOPHER L. OGDEN, SHARON FENICK, and
MARY C. HOFFMAN, *Administrative Patent Judges*.

HOFFMAN, *Administrative Patent Judge*.

JUDGMENT

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

On May 22, 2024, Abbott Laboratories (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting *inter partes* review of claims 1 and 4–20 of U.S. Patent No. 11,392,818 B2 (Ex. 1001, “the ’818 patent”). Newtonoid Technologies, LLC (“Patent Owner”) did not file a Preliminary Response.

On November 26, 2024, we granted institution of *inter partes* review, determining that “there is a reasonable likelihood that Petitioner would prevail with respect to at least one of the claims challenged in the Petition.” Paper 9, 21.

After the Institution Decision, Petitioner emailed the Board asserting that “Patent Owner has not filed a Preliminary Response or a Response” and that “Patent Owner has refused to provide its position on whether it opposes entry of adverse judgment.” Ex. 3001, 2–4 (email from Petitioner dated May 11, 2025). Based on these assertions, Petitioner requested that “the Board enter adverse judgment in this proceeding or, in the alternative, issue an order requiring Patent Owner to show cause why adverse judgment should not be entered.” *Id.* Patent Owner responded that it “is NOT requesting adverse judgment through these actions and asks that the Board not construe it as such.” *Id.* at 2 (email from Patent Owner dated May 12, 2025).

In response, the Board emailed counsel stating that Petitioner’s request was denied without prejudice, and that the parties should “meet and confer sometime over the next seven (7) business days to determine Patent Owner’s position on whether it opposes entry of adverse judgment, and update the Board accordingly via a joint email.” Ex. 3001, 1–2 (email from Board dated May 13, 2025).

On May 19, 2025, Patent Owner emailed the Board stating that “counsel for the Petitioner and Patent Owner met and conferred on May 16,

2025 and Patent Owner consents to the entry of adverse judgment.”

Ex. 3001, 1 (Patent Owner email dated May 19, 2025).

Our rules provide that “[a] party may request judgment against itself at any time during a proceeding.” 37 C.F.R. § 42.73(b). We understand Patent Owner’s May 19, 2025 email as a request for judgment against itself. Accordingly, on the record before us, 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.

Accordingly, it is:

ORDERED that Patent Owner’s May 19, 2025 email request for adverse judgment pursuant to 37 C.F.R. § 42.73(b) is *granted*;

FURTHER ORDERED that adverse judgment is entered against Patent Owner under 37 C.F.R. § 42.73(b);

FURTHER ORDERED that this proceeding is terminated pursuant to 37 C.F.R. § 42.72 and all scheduled Due Dates (*see* Paper 10) are vacated; and

FURTHER ORDERED that claims 1 and 4–20 of U.S. Patent No. 11,392,818 are *cancelled*.

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Patent 11,392,818 B2

PETITIONER:

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