

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SABINSA CORPORATION,
Petitioner,

v.

FRANCO CAVALERI,
Patent Owner.

PGR2022-00015
Patent 10,945,970 B2

Before SUSAN L. C. MITCHELL, CHRISTOPHER G. PAULRAJ, and
JAMIE T. WISZ, *Administrative Patent Judges*.

MITCHELL, *Administrative Patent Judge*.

JUDGMENT
FINAL WRITTEN DECISION
Granting Request for Adverse Judgment After Institution of Trial and
Terminating the Proceeding
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73(b)

I. INTRODUCTION

On December 15, 2021, Sabinsa Corporation (“Petitioner”) filed a Petition for Post-Grant Review of claims 1–7 of U.S. Patent No. 10,945,970 B2 (Ex. 1001, “the ’970 patent”). Paper 1 (“Pet.”). Mr. Franco Cavaleri (“Patent Owner”) chose not to file a Preliminary Response. On June 15, 2022, we instituted a post-grant review as to all of the challenged claims of the ’970 patent. Paper 6.

On September 6, 2022, Patent Owner filed a Request for Entry of Adverse Judgment pursuant to 37 C.F.R. § 42.73(b). Paper 8. In the Request, Patent Owner asks us to cancel claims 1–7, enter adverse judgment against him, and terminate this proceeding pursuant to 37 C.F.R. § 42.73(b)(2). *Id.* at 2.

II. ANALYSIS

A party may request entry of adverse judgment against itself at any time during a proceeding. 37 C.F.R. § 42.73(b). Actions construed to be a request for adverse judgment include cancellation of patent claims such that a party has no remaining claim in the trial. 37 C.F.R. § 42.73(b)(2). Patent Owner’s request to cancel claims 1–7 of the ’970 patent leaves no claim remaining in the trial. Accordingly, entry of adverse judgment against Patent Owner pursuant to 37 C.F.R. § 42.73(b) is appropriate.

III. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner’s Request for Entry of Adverse Judgment pursuant to 37 C.F.R. § 42.73(b) is *granted*;

FURTHER ORDERED that adverse judgment is entered against Patent Owner with respect to claims 1–7 of U.S. Patent No. 10,945,970 B2;

FURTHER ORDERED that claims 1–7 of U.S. Patent No. 10,945,970 B2 are canceled;¹

FURTHER ORDERED that this constitutes a final written decision under 35 U.S.C. § 318(a); and

FURTHER ORDERED that because this is a Final Written Decision, parties to this proceeding seeking judicial review of the decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

¹ See 37 C.F.R. § 42.80 (indicating that, after the Board issues a final written decision in a post grant review proceeding, the Office will issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable).

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