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Subject: RE: PGR2024-00014
Date: Thursday, February 27, 2025 1:51:12 PM

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Hi Andrew,

We apologize for the confusion. The Patent Owner requests that the Board enter a final adverse judgment against the Patent Owner.

Karl

Karl Klassen
PARTNER

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From: Trials <Trials@USPTO.GOV>
Sent: Thursday, February 27, 2025 10:34 AM
To: ben.everton@morganlewis.com; 2lhl@knobbe.com; *klassen-ptab <klassen-ptab@perkinscoie.com>
Cc: Trials <Trials@USPTO.GOV>
Subject: PGR2024-00014

Counsel,

From the Board-

On October 29, 2024, the Board sent an email to Counsel for the parties granting Patent Owner's email request, sent October 25, 2024, "to file a request for adverse judgment **against itself** under 37 C.F.R. § 42.73(b) for PGR2024-00014." See Ex.3003 (emphasis added). Patent Owner also stated in its email that "Patent Owner has conferred with Petitioner, and Petitioner does not oppose this request." *Id.*

Patent Owner filed its request for adverse judgment on October 29, 2024. See Paper 11. In the request, "Patent Owner requests that the Board enter a final adverse judgment **against Petitioner** on claims 33-36, pursuant to 37 C.F.R. § 42.73(b)(4)." *Id.* (emphasis added). The request filed (adverse judgment

Ex. 3004
PGR2024-00014

against Petitioner) is inconsistent with the request authorized (adverse judgment **against Patent Owner**). Accordingly, the parties should clarify the party against whom adverse judgment should be entered.

Also, the request sought by Patent Owner, and the request authorized by the Board, was adverse judgment against itself “under 37 C.F.R. § 42.73(b)” (“A party may request judgment against itself at any time during a proceeding.”). The request filed, however, was under subsection (b)(4), which are specific actions, or inactions, that are “construed to be a request for adverse judgment.” Because it appears that Patent Owner intended to request adverse judgment against itself, there is no need to cite to the subsections of the rule.

The parties are requested to clarify Patent Owner’s request no later than March 6, 2025.

Regards,

Andrew Kellogg,
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Patent Trial and Appeal Board
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