

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LUMILEGEND CORPORATION,
Petitioner,

v.

MANEHU PRODUCT ALLIANCE, LLC,
Patent Owner.

PGR2024-00014
Patent 11,781,703 B2

Before WILLIAM V. SAINDON, BENJAMIND. M. WOOD, and
BARRY L. GROSSMAN, *Administrative Patent Judges*.

GROSSMAN, *Administrative Patent Judge*.

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

I. INTRODUCTION AND DISCUSSION

Lumi Legend Corporation (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting a post-grant review of claims 33–36 (the “challenged claims”) of U.S. Patent No. 11,781,703 B2 (Ex. 1001, “the ’703 patent”). Manehu Product Alliance, LLC (“Patent Owner”) filed a Preliminary Response (Paper 7, “Prelim. Resp.”).

Upon considering the evidence and arguments of the parties, we instituted post-grant review on all challenged claims on all asserted grounds. Paper 9 (Decision to Institute).

Following our Decision to Institute, in an email sent to the Board on October 25, 2024, from counsel for Patent Owner, Patent Owner requested authorization to file “a request for adverse judgment *against itself* under 37 C.F.R. § 42.73(b).” Ex. 3003 (emphases added). Our Rule 42.73(b) states “A party may request judgment against itself at any time during a proceeding.”

The Board granted Patent Owner’s request. Ex. 3003.

Patent Owner then filed its “Request for Adverse Judgment Pursuant to 37 C.F.R. § 42.73(b).” Paper 11 (Request for Adverse Judgment). This Request, however, stated, in error, that Patent Owner requested “adverse judgment *against Petitioner* on claims 33-36, pursuant to 37 C.F.R. § 42.73(b)(4).” *Id.* (emphases added).

Our Rule 42.73(b)(4) concerns “[a]ctions construed to be a request for adverse judgment.” 37 C.F.R. § 42.73(b)(4) (emphasis added). Subsection (b)(4) states one of the actions construed to be a request for adverse judgment is “[a]bandonment of the contest.” *Id.* The actions construed to be a request for adverse judgment, however, are never reached when a party states unequivocally that it requests “judgment against itself.”

Based on the Board's inquiry (Ex. 3004), Patent Owner confirmed that the Request for Adverse Judgment is seeking adverse judgment against itself, not Petitioner. *Id.* As stated in the title of Patent Owner's Request for Adverse Judgment, we consider this request under our Rule 42.73(b). As corrected, the Request seeks a "final adverse judgment against [Patent Owner] on claims 33-36," which are all the challenged claims. Thus, claims 33-36 are held to be unpatentable.¹

II. ORDER

Upon consideration of the record before us, it is:

ORDERED that Patent Owner's Request for Adverse Judgment against itself as to claims 33-36 of the '703 patent is granted; and

FURTHER ORDERED that, pursuant to 37 C.F.R. § 42.73(b), claims 33-36 of the '703 patent are held to be unpatentable.

¹ Should Patent Owner wish to pursue amendment of the challenged claims in a reissue or reexamination proceeding subsequent to the issuance of this decision, we draw Patent Owner's attention to the April 2019 *Notice Regarding Options for Amendments by Patent Owner Through Reissue or Reexamination During a Pending AIA Trial Proceeding*. See 84 Fed. Reg. 16,654 (Apr. 22, 2019). If Patent Owner chooses to file a reissue application or a request for reexamination of the challenged patent, we remind Patent Owner of its continuing obligation to notify the Board of any such related matters in updated mandatory notices. See 37 C.F.R. § 42.8(a)(3), (b)(2).

III. SUMMARY TABLE

Claims	35 U.S.C. §	Reference(s)/Basis	Claims Shown Unpatentable	Claims Not shown Unpatentable
36	112(a)	Written Description	36	
36	112(b)	Indefinite	36	
33–36	102(a)	Clary	33–36	
33–36	103	Clary, Tsuji	33–36	
33–36	102(a)	Pankros	33–36	
33–36	103	Pankros, Clary	33–36	
Overall Outcome			33–36	

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