

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ABB INC.
Petitioner

v.

ROY-G-BIV CORPORATION
Patent Owner

Case IPR2014-00122
Patent 6,941,543

Before THOMAS L. GIANNETTI, JENNIFER S. BISK, and JEREMY M. PLENZLER, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

JUDGMENT AND FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73(b)

BACKGROUND

The petition seeks *inter partes* review of claims 5-16 of U.S. Patent 6,941,543. Paper 1. On February 18, 2014, Patent Owner filed a preliminary response. Paper 6. Patent Owner's response states that the '543 patent is set to expire in May 2015. *Id.* at 2. For this and other reasons, Patent Owner cancels the claims of the '543 patent challenged in the petition. *Id.* at 4.

Petitioner requested a conference call with Board to discuss this. A call was held on February 24, 2014. Respective counsel for the parties and Judges Bisk, Plenzler, and Giannetti participated.

Patent Owner indicated that in view of the cancellation of all challenged claims, Patent Owner requests that adverse judgment be entered under 37 C.F.R. § 42.73(b).

DISCUSSION

A party may request entry of adverse judgment against itself at any time during a proceeding. 37 C.F.R. § 42.73(b). Here, Patent Owner has cancelled each claim for which *inter partes* review is sought. Paper 6 at 4. Under these circumstances, the entry of judgment adverse to the Patent Owner and cancellation of the claims as requested is appropriate.

During the call, Petitioner requested guidance on seeking a refund of the fees paid to the USPTO. Petitioner is directed to FAQ E7 under Trials - Frequently Asked Questions on the Board's web site (www.uspto.gov/ip/boards/bpai/index.jsp).

CONCLUSION

Patent Owner's request for entry of adverse judgment is *granted*.

It is, therefore,

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

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

FURTHER ORDERED that claims 5-16 of U.S. Patent 6,941,543 are hereby CANCELLED.

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