

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CELANESE INTERNATIONAL CORPORATION,
Petitioner,

v.

DAICEL CORPORATION,
Patent Owner.

Case IPR2017-00162
Patent 9,115,071 B2

Before SHERIDAN K. SNEDDEN, ZHENYU YANG, and
TINA E. HULSE, *Administrative Patent Judges*.

YANG, *Administrative Patent Judge*.

JUDGMENT
Request for Adverse Judgment
37 C.F.R. § 42.73(b)

Celanese International Corporation (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1–10 of U.S. Patent No. 9,115,071 B2 (“the ’071 patent,” Ex. 1001). We instituted *inter partes* review of claims 1–7, 9, and 10. Paper 10, 18; Paper 12.

On July 31, 2017, Patent Owner Daicel Corporation (“Patent Owner”) filed a Request for Adverse Judgment under 37 C.F.R. § 42.73(b)(2). Paper 20. Patent Owner asserts that a statutory disclaimer for claims 1–7, 9, and 10 of the ’071 patent under 37 C.F.R. § 1.321(a)(1) was concurrently filed by Patent Owner with the appropriate fee. *Id.* at 1.

Pursuant to 37 C.F.R. § 42.73(b), a party may request judgment against itself at any time during a proceeding. Cancellation or disclaimer of one or more claims, such that the patent owner has no remaining claim in the trial, is construed to be a request for adverse judgment. 37 C.F.R. § 42.73(b)(2). Patent Owner has disclaimed all of the claims of the ’071 patent on which a trial was instituted in the instant proceeding such that, after the disclaimer, it has no remaining claim in the trial. *See* Ex. 3001.

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner’s request for adverse judgment under 37 C.F.R. § 42.73(b) is *granted*; and

FURTHER ORDERED that judgment is entered against Patent Owner with respect to claims 1–7, 9, and 10 of the ’071 patent.

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