

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FITBIT, INC.  
Petitioner,

v.

SMART WEARABLE TECHNOLOGIES INC.,  
Patent Owner.

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Case IPR2018-00252  
Patent 6,997,882 B1

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Before PATRICK R. SCANLON, ZHENYU YANG, and  
TIMOTHY J. GOODSON, *Administrative Patent Judges*.

GOODSON, *Administrative Patent Judge*.

ORDER

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

## INTRODUCTION

After a trial was instituted in this proceeding, Smart Wearable Technologies Inc. (“Patent Owner”) filed a Renewed Disclaimer of Challenged Claims, which requests that we enter adverse judgment. Paper 13. Patent Owner states that it has filed a statutory disclaimer of claims 8–10, which are all of the claims challenged in this proceeding. *Id.* at 2. Patent Owner’s disclaimer has been filed as Exhibit 2001 in this proceeding.

“A party may request 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 “disclaimer of a claim such that the party has no remaining claim in the trial.” *Id.* § 42.73(b)(2). Here, Patent Owner has requested cancellation of each of the claims challenged in the Petition and expressly requested entry of adverse judgment. Paper 13, 2. Patent Owner’s request for entry of adverse judgment is *granted*.

## ORDER

Accordingly, it is

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

FURTHER ORDERED that a certificate canceling claims 8–10 of U.S. Patent No. 6,997,882 B1 will be issued in due course pursuant to 35 U.S.C. § 318(b) and 37 C.F.R. § 42.80;

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

FURTHER ORDERED that this proceeding is hereby terminated.

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