

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DONNELLY DISTRIBUTION LLC
and
RAIMONDI S.P.A.,
Petitioner,

v.

RUSSO TRADING CO., INC.,
Patent Owner.

IPR2019-00761
Patent 9,279,259 B1

Before ANDREI IANCU, *Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office*,
SALLY C. MEDLEY, and KEVIN W. CHERRY,
Administrative Patent Judges.

CHERRY, *Administrative Patent Judge.*

JUDGMENT

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

On September 6, 2019, we instituted trial on claims 6 and 7 of U.S. Patent No. 9,279,259 B1 (Ex. 1001, “the ’259 patent”). Paper 8. On December 6, 2019, Russo Trading Co., Inc. (“Patent Owner”) filed Patent Owner’s Request for Adverse Judgment (Paper 10, “Request”). Paper 10. Patent Owner requests that we cancel challenged claims 6 and 7 of the ’259 patent. Request 1. Patent Owner further requests that, because claims 6 and 7 are the only challenged claims in this matter, we terminate this *inter partes* review. *Id.*

A party may request entry for adverse 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 cancelation of patent claims, such that a party has no remaining claim in the trial. *Id.* § 42.73(b)(2). Patent Owner’s request to cancel claims 6 and 7 of the ’259 patent leaves no claim remaining for trial. Accordingly, entry of judgment adverse to Patent Owner pursuant to 37 C.F.R. § 42.73(b) is appropriate.

Accordingly, it is

ORDERED that Patent Owner’s request for adverse judgment is *granted*;

FURTHER ORDERED that claims 6 and 7 of U.S. Patent No. 9,279,259 B1 are *canceled*;

FURTHER ORDERED that judgment is entered adverse to Patent Owner with respect to claims 6 and 7 of U.S. Patent No. 9,279,259 B1; and

FURTHER ORDERED that this *inter partes* review is *terminated*.

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