

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BESTWAY (USA), INC.,
Petitioner,

v.

INTEX MARKETING LTD.,
Patent Owner.

Case PGR2017-00029
Patent 9,567,762 B2

Before KEN B. BARRETT, FRANCES L. IPPOLITO, and
KEVIN W. CHERRY, *Administrative Patent Judges*.

IPPOLITO, *Administrative Patent Judge*.

ORDER

Granting Patent Owner's Request for Adverse Judgment
37 C.F.R. §§ 42.72, 42.73

BACKGROUND

Bestway (USA), Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) for post-grant review of claims 1–29 of U.S. Patent No. 9,567,762 B2 (Ex. 1001, “the ’762 patent”). Intex Marketing Ltd. (“Patent Owner”) filed a Preliminary Response to the Petition (Paper 8, “Prelim. Resp.”). On December 4, 2017, we instituted a post-grant review of claims 1, 2, 6–9, and 16–29 the ’762 patent. Paper 10.

On February 16, 2018, Patent Owner filed a Request for Adverse Judgment, Paper 12, requesting adverse judgment pursuant to 37 C.F.R. § 42.73(b), with respect to the claims that are the subject of this proceeding.

DISCUSSION

A party may request entry of adverse judgment against itself at any time during a proceeding. *See* 37 C.F.R. § 42.73(b). In its request, Patent Owner “requests judgment against itself and asks that the Board cancel the instituted claims (claims 1, 2, 6-9, and 16-29) and enter adverse judgment against it.” Paper 12, 2. Petitioner indicated in a February 26, 2018 email to the Board that it does not oppose Patent Owner’s request.

Under these circumstances, we determine that the grant of the request for entry of adverse judgment is appropriate.

ORDER

It is ORDERED that Patent Owner’s Request for Adverse Judgment under 37 C.F.R. § 42.73(b) with respect to claims 1, 2, 6–9, and 16–29 of U.S. Patent No. 9,567,762 B2 is GRANTED; and,

FURTHER ORDERED that judgment is entered herein against Patent Owner with respect to claims 1, 2, 6–9, and 16–29 of U.S. Patent No. 9,567,762 B2. Claims 1, 2, 6–9, and 16–29 shall be cancelled.

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