

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DEVELOPMENTAL TECHNOLOGIES, LLC,
Petitioner,

v.

DUPONT SAFETY AND CONSTRUCTION, INC.,
Patent Owner.

PGR2018-00102
Patent 9,848,543 B2

Before SCOTT A. DANIELS, CARL M. DEFRANCO, and
RYAN H. FLAX, *Administrative Patent Judges*.

DEFRANCO, *Administrative Patent Judge*.

JUDGMENT

Granting Patent Owner's Request for Adverse Judgment Post-Institution
37 C.F.R. § 42.73(b)

DuPont Safety and Construction, Inc. (“DuPont”) is the owner of U.S. Patent No. 9,848,543 B2 (“the ’543 patent”).¹ Developmental Technologies, LLC (“DTL”) filed a petition for post-grant review of claims 1–18 of the ’543 patent. Paper 1. On April 3, 2019, we instituted a post-grant review of all the challenged claims. Paper 6. DuPont now requests cancellation of those claims and entry of adverse judgment under 37 C.F.R. § 42.73(b)(2). Paper 14.

A patent owner is free to request judgment against itself “at any time during a proceeding” upon “[c]ancellation or disclaimer” of all the challenged claims in the petition such that there is “no remaining claim in the trial.” 37 C.F.R. § 42.73(b). Here, DuPont requests cancellation of all the challenged claims on which we instituted trial, i.e., claims 1–18 of the ’543 patent. Paper 14. Because no claims will remain for trial upon cancellation of claims 1–18, the entry of final judgment against DuPont is appropriate.

Accordingly, it is hereby

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

FURTHER ORDERED that claims 1–18 of the ’543 patent are *cancelled*;

FURTHER ORDERED that, upon cancellation of claims 1–18 of the ’543 patent, judgment against DuPont pursuant to 37 C.F.R. § 42.73(b) is *entered*;

¹ After the petition was filed, ownership of the ’543 patent was transferred from E.I. DuPont De Nemours and Company, the originally-named patent owner, to DuPont Safety and Construction, Inc. Paper 11 at 2. A copy of the assignment was recorded with the Office on June 17, 2019. *See id.*, Ex. 1.

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FURTHER ORDERED that DuPont shall file a notice and copy of this final judgment in the files of any proceeding or action involving the '543 patent; and

FURTHER ORDERED that, pursuant to 37 C.F.R. § 42.73(d)(3), DuPont is precluded from taking any action inconsistent with this final judgment, including obtaining or maintaining any patent claim that is not patentably distinct from the cancelled claims in this proceeding.

For PETITIONER:

Scott Balderston
Steven Olsen
DEVELOPMENTAL TECHNOLOGIES, LLC
sbalderston@symbus.com
solsen@sropetent.com

For PATENT OWNER:

Stephen Gombita
Steven Benjamin
DUPONT SAFETY AND CONSTRUCTION, INC.
stephen.j.gombita@dupont.com
steven.c.benjamin@dupont.com