

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HEWLETT-PACKARD COMPANY,
Petitioner

v.

YYZ, LLC,
Patent Owner

CBM2015-00050

**UNOPPOSED MOTION FOR ENTRY OF ADVERSE JUDGMENT
AGAINST PATENT OWNER PURSUANT TO 37 C.F.R § 42.73(b)**

U.S. PATENT NO. 7,603,674

Pursuant to the Board's December 2, 2015 order (paper no. 14), Petitioner respectfully submits this motion for entry of adverse judgment against Patent Owner under 37 C.F.R § 42.73(b). The basis for this motion is as follows:

1) Patent Owner has not filed its trial response to the petition, and has acknowledged through counsel that it would be taking no further action in the subject CBM proceedings, CBM2015-00049 and CBM2015-00050.

2) Patent Owner has not filed an appeal to the Federal Circuit with respect to the final judgment entered in the related district court litigation in *YYZ, LLC v. Hewlett Packard Co.*, No. 1:13-cv-00136-SLR (D. Del.) (or in the other related cases involving the subject patent), and the time for filing any such appeal has expired; in the summary judgment opinion that accompanied final judgment, the district court ruled that the patent claims at issue are invalid under 35 U.S.C. §101. *See* paper nos. 12-13 and Ex. nos. 1036-1038.

3) Patent Owner has confirmed through counsel that it has abandoned the subject CBM proceedings. *See* paper 14 at 2.

Adverse judgment is governed by 37 C.F.R § 42.73(b). Under 37 C.F.R § 42.73(b)(4), "Abandonment of the contest" is construed as a request for adverse judgment. Since the actions and statements of Patent Owner indisputably demonstrate that Patent Owner has abandoned these CBM proceedings, the Board

should enter adverse judgment against Patent Owner pursuant to 37 C.F.R §
42.73(b).

Conclusion.

For the reasons stated above, Petitioner requests that the Board grant this
motion and enter adverse judgment against Patent Owner.

Date: December 3, 2015

Respectfully submitted,

/s/ Brian S. Mudge/
Brian S. Mudge (Reg. No. 40,738)
Lead Counsel for Petitioner
Matthew Faust
Adeel Haroon (Reg. No. 64,938)
Backup Counsel for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Unopposed Motion For Entry of Adverse Judgment Against Patent Owner Pursuant to 37 C.F.R § 42.73(b) was served via email on jchovanes@chovanes.com, counsel of record for Patent Owner.

Date: December 3, 2015

By: /s/ Brian S. Mudge /
Brian S. Mudge (Reg. No. 40,738)
Lead Counsel for Petitioner

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