

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HEWLETT-PACKARD COMPANY,
Petitioner,

v.

YYZ LLC,
Patent Owner.

Case CBM2015-00049 (Patent 7,062,749 B2)
Case CBM2015-00050 (Patent 7,603,674 B2)

Before THOMAS L. GIANNETTI, RICHARD E. RICE, and
MICHAEL L. WOODS, *Administrative Patent Judges*.

RICHARD E. RICE, *Administrative Patent Judge*.

JUDGMENT AND FINAL WRITTEN DECISION
Abandonment of the Contest
35 U.S.C. § 328(a) and 37 C.F.R. § 42.73(b)(4)

This case is before the Board on Petitioner's motion for adverse judgment under 37 C.F.R. § 42.73(b). Paper 15.

In CBM2015-00049, Petitioner filed a Petition (Paper 1) requesting covered business method patent review of claims 22, 23, and 27–29 of U.S. Patent No. 7,062,749 B2; and in CBM2015-00050, Petitioner filed a Petition

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(Paper 2) requesting covered business method patent review of claims 51, 52, and 55–57 of U.S. Patent No. 7,603,674 B2. The Board granted both Petitions and instituted covered business method patent reviews of all challenged claims on June 30, 2015. Paper 9.¹ On December 2, 2015, the Board issued an Order authorizing Petitioner to file a motion seeking adverse judgment. Paper 14. Petitioner filed an “Unopposed Motion for Entry of Adverse Judgment against Patent Owner pursuant to 37 C.F.R. § 42.73(b)” (“Motion”) on December 3, 2015. Paper 15. The Motion states that “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.” Paper 15, 1. The Motion also states that “Patent Owner has confirmed through counsel that it has abandoned the subject CBM proceedings.” *Id.* (citing Paper 14, 2).

Under 37 C.F.R. § 42.73(b)(4), a party may request judgment against itself at any time during a proceeding. Actions construed to be a request for such an adverse judgment include abandonment of the contest. We find that Patent Owner’s actions and admissions, as set forth in the Motion, constitute abandonment of these CBM Proceedings, and we determine based on such abandonment that Patent Owner has requested adverse judgment under 37 C.F.R. § 42.73(b)(4) in both proceedings.

¹ Similar papers were filed in each proceeding. Citations are to papers filed in CBM2015-00049 unless otherwise indicated.

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Accordingly, it is hereby

ORDERED that Petitioner's Unopposed Motions for Entry of Adverse Judgment against Patent Owner pursuant to 37 C.F.R. § 42.73(b), in CBM2015-00049 and CBM2015-00050, are GRANTED;

FURTHER ORDERED that this Order constitutes a final written decision under 35 U.S.C. § 328(a) in CBM2015-00049 and CBM2015-00050;

FURTHER ORDERED that Patent Owner's request under 37 C.F.R. § 42.73(b)(4) for adverse judgment in CBM2015-00049 is GRANTED;

FURTHER ORDERED that Patent Owner's request under 37 C.F.R. § 42.73(b)(4) for adverse judgment in CBM2015-00050 is GRANTED;

FURTHER ORDERED that claims 22, 23, and 27–29 of U.S. Patent No. 7,062,749 B2 be CANCELLED; and

FURTHER ORDERED claims 51, 52, and 55–57 of U.S. Patent No. 7,603,674 B2 be CANCELLED.

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