

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICRON TECHNOLOGY, INC. and  
MICRON MEMORY JAPAN, INC.,  
Petitioners,

v.

MASSACHUSETTS INSTITUTE OF TECHNOLOGY,  
Patent Owner.

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IPR2015-01087  
Patent 6,057,221 C1

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Before KALYAN K. DESHPANDE, BRIAN J. McNAMARA, and  
DANIEL J. GALLIGAN, *Administrative Patent Judges*.

GALLIGAN, *Administrative Patent Judge*.

JUDGMENT  
Request for Adverse Judgment  
*37 C.F.R. § 42.73(b)*

On November 5, 2015, we instituted an *inter partes* review of claims 3, 4, 6–8, 13–15, 17, 18, and 21–30 of U.S. Patent No. 6,057,221 C1 (“the ’221 patent”), which are all of the claims that emerged from reexamination pursuant to Reexamination Request No. 90/011,607. Paper 12. On December 21, 2015, pursuant to our authorization (Paper 22), Patent Owner filed a request to cancel the challenged claims and have adverse judgment entered against it under 37 C.F.R. 42.73(b)(2). Paper 23.<sup>1</sup>

Under 35 U.S.C. § 42.73(b), a party may request judgment against itself at any time during a proceeding. Also, under 37 C.F.R. § 42.73(b)(2), actions construed as a request for entry of adverse judgment include cancellation of a claim such that the party has no remaining claim in the trial.

Patent Owner has requested adverse judgment and the cancellation of all claims involved in this *inter partes* review, such that after the cancellation it will have no remaining claim in the trial.

We hereby grant Patent Owner’s request for adverse judgment.

Accordingly, it is:

ORDERED that Patent Owner’s request to cancel claims 3, 4, 6–8, 13–15, 17, 18, and 21–30 and request for entry of adverse judgment are granted;

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<sup>1</sup> Patent Owner makes its request to cancel the challenged claims “in light of” alleged “statistics weighing against it once a decision instituting proceedings has been issued.” Paper 23. Each case presents its own unique facts and our decision to grant Patent Owner’s Request for Adverse Judgment is in no way influenced by Patent Owner’s unsupported assertion. This judgment is entered solely on the basis of Patent Owner’s request, without regard to any factor Patent Owner alleges as its motivation.

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FURTHER ORDERED that judgment is herein entered against Patent Owner with respect to claims 3, 4, 6–8, 13–15, 17, 18, and 21–30 of U.S. Patent No. 6,057,221 C1; and

FURTHER ORDERED that claims 3, 4, 6–8, 13–15, 17, 18, and 21–30 of U.S. Patent No. 6,057,221 C1 shall be *canceled*.

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