

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ARTHREX, INC. and SMITH & NEPHEW, INC.,  
Petitioner,

v.

VITE TECHNOLOGIES, INC.,  
Patent Owner.

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Case IPR2016-00382  
Patent 6,168,598 B1

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Before WILLIAM V. SAINDON, BARRY L. GROSSMAN, and  
TIMOTHY J. GOODSON, *Administrative Patent Judges*.

GOODSON, *Administrative Patent Judge*.

ORDER

Granting Request for Adverse Judgment After Institution of Trial  
*37 C.F.R. § 42.73*

On June 28, 2016, we instituted this *inter partes* review of claims 21, 25–27, 29, 30, 38, and 39 of U.S. Patent No. 6,168,598 B1 (“the ’598 patent”). Paper 7. On November 4, 2016, Patent Owner filed a Request for Adverse Judgment Under 37 C.F.R. § 42.73(b). Paper 14 (“Request”). In the Request, Patent Owner “respectfully requests judgment against itself, and asks that the Board cancel the only claims remaining in this proceeding (claims 21, 25–27, 29, 30, 38, and 39) and enter adverse judgment against it as to those remaining claims.” *Id.*

A party may request entry of adverse judgment against itself at any time during a proceeding. *See* 37 C.F.R. § 42.73(b). 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. Here, Patent Owner has requested cancellation of each of the claims identified for trial and expressly requested entry of adverse judgment. Paper 14. Patent Owner’s requests for cancellation of claims 21, 25–27, 29, 30, 38, and 39 of the ’598 patent and for entry of adverse judgment are *granted*.

For the foregoing reasons, it is:

ORDERED that judgment is entered against Patent Owner under 37 C.F.R. § 42.73(b);

FURTHER ORDERED that a certificate canceling claims 21, 25–27, 29, 30, 38, and 39 of U.S. Patent No. 6,168,598 B1 will be issued in due course pursuant to 35 U.S.C. § 318(b) and 37 C.F.R. § 42.80;

FURTHER ORDERED that this constitutes a final written decision under 35 U.S.C. § 318(a); and

FURTHER ORDERED that this proceeding is hereby terminated.

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Patent 6,168,598 B1

PETITIONER:

Michael Rader  
[Mrader-PTAB@wolfgreenfield.com](mailto:Mrader-PTAB@wolfgreenfield.com)

Randy Pritzker  
[Rpritzker-PTAB@wolfgreenfield.com](mailto:Rpritzker-PTAB@wolfgreenfield.com)

Anthony Cho  
[acho@cgolaw.com](mailto:acho@cgolaw.com)

PATENT OWNER:

Steven Daniels  
[sdaneils@farneydaniels.com](mailto:sdaneils@farneydaniels.com)

Gurtej Singh  
[tsingh@farneydaniels.com](mailto:tsingh@farneydaniels.com)