

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ASSA ABLOY AB,
Petitioner,

v.

UNIKEY TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2016-00679
Patent 9,057,210 B2

Before KEVIN F. TURNER, RAMA G. ELLURU, and
DANIEL J. GALLIGAN, *Administrative Patent Judges*.

GALLIGAN, *Administrative Patent Judge*.

ADVERSE JUDGMENT
FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73(b)

I. DISCUSSION

ASSA ABLOY AB (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1–7, 9, 10, 12–18, 20–29, 31, 33–35, 37–42, 44, and 45 of U.S. Patent No. 9,057,210 B2. Paper 2. UniKey Technologies, Inc. (“Patent Owner”) filed a Power of Attorney (Paper 4) and Mandatory Notices under 37 C.F.R. § 42.8 (Paper 5), but Patent Owner did not file a Preliminary Response. We instituted trial on all challenged claims, issuing a Scheduling Order (Paper 7), which set November 21, 2016 as DUE DATE 1, the due date by which Patent Owner was required to file a Response to the Petition and a Motion to Amend. The parties did not stipulate to different due dates. Patent Owner did not file a Response to the Petition or a Motion to Amend by the November 21, 2016 due date set under the Scheduling Order.

On March 29, 2017, we entered an Order to Show Cause as to why we should not construe Patent Owner’s failure to act as consistent with abandonment of the contest and enter adverse judgment against Patent Owner pursuant to 37 C.F.R. § 42.73(b)(4), which states that “[a]ctions construed to be a request for adverse judgment include . . . [a]bandonment of the contest.” Paper 8. The Order set a deadline for Patent Owner to file a paper demonstrating good cause why adverse judgment should not be entered at ten business days (April 12, 2017) after the date of the Order. Since the time of entry of the Order to Show Cause, Patent Owner has not contacted the Board, nor has Patent Owner filed a paper in response to the Order by the April 12, 2017 deadline.

Under these particular circumstances, we treat the failure of Patent Owner to timely file a response to the Petition and a Motion to Amend and

to timely file a responsive paper to the Order to Show Cause, along with a lack of any other communications from Patent Owner on this issue, as consistent with abandonment of the contest. Under 37 C.F.R. § 42.73(b), we construe this abandonment as a request for adverse judgment.

II. ORDER

Accordingly, it is

ORDERED that adverse judgment is entered against Patent Owner under 37 C.F.R. § 42.73(b)(4);

FURTHER ORDERED that claims 1–7, 9, 10, 12–18, 20–29, 31, 33–35, 37–42, 44, and 45 of U.S. Patent No. 9,057,210 B2 will be cancelled;¹ and

FURTHER ORDERED that, because this is a Final Written Decision, parties to this proceeding seeking judicial review of our decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

¹ See 37 C.F.R. § 42.80 (indicating that after the Board issues a final written decision in an *inter partes* review proceeding, the Office will issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable).

IPR2016-00679
Patent 9,057,210 B2

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