

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.,
Petitioner,

v.

BOEHRINGER INGELHEIM INTERNATIONAL GMBH,
Patent Owner.

Case IPR2016-01563
Patent 8,673,927 B2

Before TONI R. SCHEINER, BRIAN P. MURPHY, and
ZHENYU YANG, *Administrative Patent Judges*.

MURPHY, *Administrative Patent Judge*.

ORDER

Granting Patent Owner's Request for Adverse Judgment
37 C.F.R. §§ 42.72, 42.73

BACKGROUND

On February 3, 2017, the Board instituted a review of the patentability of claims 1 and 10 of U.S. Patent No. 8,673,927 B2 (“the ’927 patent,” Ex. 1001). Paper 16. On April 14, 2017, Boehringer Ingelheim International GmbH (“Patent Owner”) filed a Request for Adverse Judgment Under 37 C.F.R. § 42.73(b)(2). Paper 21. Mylan Pharmaceuticals Inc. (“Petitioner”) does not oppose the Request. Paper 22.

Patent Owner’s Request is granted.

DISCUSSION

A party may request judgment against itself at any time during a proceeding. 37 C.F.R. § 42.73(b). Under the Rules, actions construed as a request for entry of adverse judgment include “[c]ancellation or disclaimer of a claim such that the party has no remaining claim in the trial.” 37 C.F.R. § 42.73(b)(2). Here, Patent Owner has requested that “the Board cancel the instituted claims (claims 1 and 10) and enter adverse judgment against it.” Paper 21, 1.

CONCLUSION

Having reviewed Patent Owner’s Request, we determine that entry of judgment against Patent Owner with respect to claims 1 and 10 of the ’927 patent is appropriate. Because no challenged claim remains in the trial, we terminate the proceeding. 37 C.F.R. § 42.72.

ORDER

Accordingly, it is

ORDERED that adverse judgment is entered under 37 C.F.R.
§ 42.73(b) against Patent Owner with respect to claims 1 and 10 of the '927
patent; and

FURTHER ORDERED that this proceeding is hereby
TERMINATED.

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