

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 IPR2016-01564
Patent 8,846,695 B2

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

YANG, *Administrative Patent Judge*.

ORDER

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

BACKGROUND

On January 31, 2017, the Board instituted a review of the patentability of claims 1–4 of U.S. Patent No. 8,846,695 B2 (“the ’695 patent,” Ex. 1001). Paper 17. 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 20. Mylan Pharmaceuticals Inc. (“Petitioner”) does not oppose the Request. Paper 21.

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 1–4) and enter adverse judgment against it.” Paper 20, 1.

CONCLUSION

Having reviewed Patent Owner’s Request, we determine that entry of judgment against Patent Owner with respect to claims 1–4 of the ’695 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 1–4 of the '695
patent; and

FURTHER ORDERED that this proceeding is hereby
TERMINATED.

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