

IPR2016-01710
U.S. Patent 7,490,037

Filed on behalf of Digital Audio Encoding Technologies, LLC

By:

Timothy Devlin

tdevlin@thedevlinlawfirm.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.
Petitioner

v.

DIGITAL AUDIO ENCODING TECHNOLOGIES, LLC
Patent Owner

IPR2016-01710
U.S. Patent 7,490,037

**PATENT OWNER'S REQUEST FOR ADVERSE JUDGMENT
UNDER 37 C.F.R. § 42.73(b)**

Pursuant to 37 C.F.R. § 42.73(b), Digital Audio Encoding Technologies, LLC (“DAE”) requests entry of adverse judgment in the *Inter Partes* Review of U.S. Patent in IPR2016-01710. Petitioner Unified Patents Inc. (“Unified”) does not oppose.

A party may request entry of adverse judgment against itself at any time during a proceeding. 37 C.F.R. § 42.73(b). Actions construed to be a request for adverse judgment include cancelation of patent claims such that a party has no remaining claim in the trial. *Id.* Patent Owner requests to cancel all claims of the '037 patent due to a break in continuity caused by the failure to pay an extension fee. This request to cancel all claims of the '037 patent leaves no claim remaining for trial. Accordingly, entry of judgment against Patent Owner pursuant to 37 C.F.R. § 42.73(b) is appropriate.

On December 13, 2016, the Parties informed the Board that the claims are invalid and requested authorization to file a joint motion for adverse judgment in the proceeding with respect to both the Patent Owner and the Petitioner.

As set forth in an e-mail dated December 14, 2016, the Board authorized the filing of a motion to expunge, recognizing that the Patent Owner does not need permission to file a request for adverse judgment. Accordingly, Patent Owner requests adverse judgment of the present

proceeding.

Public policy favors terminating the present *inter partes* review proceeding. Ending this IPR early promotes the Congressional goal of establishing a more efficient patent system by limiting unnecessary and counterproductive costs. *See* Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents, 77 Fed. Reg. 48,680 (Aug. 14, 2012). Permitting termination as to all parties provides certainty and fosters an environment that promotes a timely, cost-effective alternative to litigation.

Date: December 21, 2016

Respectfully submitted,



Timothy Devlin, Reg. No. 41,706
DEVLIN LAW FIRM LLC
1306 N. Broom Street, 1st Floor
Wilmington, DE 19806
tdevlin@devlinlawfirm.com
Phone: (302) 449-9010
Facsimile: (302) 353-4251

*Attorney for Patent Owner
Digital Audio Encoding
Technologies, LLC*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the Patent Owner's Request for Adverse Judgment was served on December 21, 2016, via electronic mail directed to the attorney of record for the patent at the following address: jonathan@unifiedpatents.com. Petitioner has consented to electronic service.

Date: December 21, 2016

Respectfully submitted,

By: /s/ Timothy Devlin

Timothy Devlin, Reg. No. 41,706