

IPR2017-00209  
U.S. Patent 7,490,037

Filed on behalf of Digital Audio Encoding Technologies, LLC

By:

Timothy Devlin

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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RPX Corporation,  
Petitioner.

v.

Digital Audio Encoding Systems, LLC,  
Patent Owner.

IPR2017-00209  
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 IPR2017-00209. Petitioner RPX Corporation (“RPX”) 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 break resulted in dismissal of all pending lawsuits regarding the ’037 patent, and a cessation of all settlement and licensing efforts regarding the ’037 patent. This request to cancel all claims of the ’037 patent leaves no claim remaining for trial in this proceeding. Accordingly, entry of judgment against Patent Owner pursuant to 37 C.F.R. § 42.73(b) is appropriate.

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

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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 28, 2016

Respectfully submitted,



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*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 28, 2016, via electronic mail directed to the attorney of record for the patent at the following address: EHunt-PTAB@wolfgreenfield.com. Petitioner has consented to electronic service.

Date: December 28, 2016

Respectfully submitted,

By: /s/ Timothy Devlin

Timothy Devlin, Reg. No. 41,706