

EXHIBIT 18

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Paper No. 72
Entered: October 29, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DR. MICHAEL FARMWALD and RPX CORPORATION,
Petitioner,

v.

PARKERVISION, INC.,
Patent Owner.

Case IPR2014-00948
Patent 6,370,371 B1

Before MICHAEL R. ZECHER, BART A. GERSTENBLITH, and
JON B. TORNQUIST, *Administrative Patent Judges*.

TORNQUIST, *Administrative Patent Judge*.

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

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I. BACKGROUND

On June 12, 2014, Dr. Michael Farmwald and RPX Corporation (collectively, “Petitioner”) filed a Petition for *inter partes* review of U.S. Patent No. 6,370,371 B1 (“the ’371 patent”). Paper 1. ParkerVision, Inc. (“Patent Owner”) filed a Preliminary Response on September 24, 2014. Paper 7. On December 18, 2014, we instituted this *inter partes* review of claims 2, 22, 23, and 25 of the ’371 patent. Paper 8.

On March 19, 2015, Patent Owner filed a Response to the Petition (Paper 25), and on June 26, 2015, Petitioner filed a Reply to Patent Owner’s Response (Paper 45). The parties requested oral argument (Papers 53, 54), which was scheduled for August 27, 2015 (Paper 9, 6).

On July 31, 2015, the U.S. Court of Appeals for the Federal Circuit, in unrelated, parallel litigation involving the ’371 patent, found claim 2 invalid. Ex. 2043. In view of the Federal Circuit’s decision, the parties requested, and we granted, postponement of the oral argument. *See* Paper 65, 2. Patent Owner indicated that, if the Federal Circuit’s decision were upheld, i.e., final, it would request adverse judgment as to all instituted claims. *Id.*

On October 2, 2015, the Federal Circuit denied Patent Owner’s petition for rehearing. Ex. 2044. Subsequently, on October 22, 2015, Patent Owner filed a Motion for Adverse Judgment Under 37 C.F.R. § 42.73(b) requesting cancellation of claims 2, 22, 23, and 25 of the ’371 patent. Paper 71, “Mot.”

II. DISCUSSION

Patent Owner’s Motion requests that we cancel claims 2, 22, 23, and 25 and that we terminate this proceeding because each claim pending in this

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trial will be cancelled. Mot. 1. Patent Owner indicates that Petitioner does not oppose Patent Owner's request for adverse judgment. *Id.*

A party may request entry of adverse judgment against itself at any time during a proceeding. 37 C.F.R. § 42.73(b). "Judgment" is defined as "a final written decision by the Board, or a termination of a proceeding." 37 C.F.R. § 42.2. Although Patent Owner uses the term "termination" in its Motion, it did not submit the Motion under 37 C.F.R. § 42.72 and it did not explain why termination is appropriate in this circumstance. *See* 37 C.F.R. § 42.72 (noting that the Board may terminate a trial without rendering a final written decision "where appropriate," such as when the trial is consolidated with another proceeding or pursuant to a settlement under 35 U.S.C. § 317(a)).

Under the circumstances presented here, we see no reason not to grant Patent Owner's Motion. Additionally, for the reasons discussed above, this Decision is a Final Written Decision, not a termination of the proceeding.¹

III. ORDER

It is:

ORDERED that Petitioner's Motion for Adverse Judgment Under 37 C.F.R. § 42.73(b) (Paper 71) is *granted*;

FURTHER ORDERED that judgment is entered against Patent Owner with respect to claims 2, 22, 23, and 25 of the '371 patent;

FURTHER ORDERED that claims 2, 22, 23, and 25 of the '371 patent are *cancelled*; and

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

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FURTHER ORDERED that any party to the proceeding seeking judicial review of this Final Written Decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

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