

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GLOBUS MEDICAL, INC.,
Petitioner,

v.

FLEXUSPINE, INC.,
Patent Owner.

Case IPR2015-01749
Patent 7,204,853 B2

Before WILLIAM V. SAINDON, HYUN J. JUNG, and
TIMOTHY J. GOODSON, *Administrative Patent Judges*.

SAINDON, *Administrative Patent Judge*.

JUDGMENT

Granting Request for Adverse Judgment After Institution of Trial
37 C.F.R. § 42.73(b)

I. INTRODUCTION

Globus Medical, Inc. filed a Petition requesting *inter partes* review of claims 1 and 5 of U.S. Patent No. 7,204,853 B2 (Ex. 1001, “the ’853 patent”). Paper 1. On February 24, 2016, we instituted *inter partes* review of claim 5 of the ’853 patent. Paper 11, 18. On May 24, 2016, Flexuspine, Inc. (“Patent Owner”) filed a Request for Adverse Judgment asking that the Board cancel claim 5 of the ’853 patent. Paper 14. “In view of the cancellation of all claims remaining in this proceeding,” Patent Owner submits that its request for adverse judgment should be granted pursuant to 37 C.F.R. § 42.73(b)(2). *Id.* at 1.

II. DISCUSSION

A party may request entry of adverse judgment against itself at any time during a proceeding. 37 C.F.R. § 42.73(b). Also, under 37 C.F.R. § 42.73(b)(2), actions construed as a request for entry of adverse judgment include cancellation of a claim such that the party has no remaining claim in the trial. Here, Patent Owner has requested cancellation of all the claims identified for trial and expressly requested entry of adverse judgment. Paper 14. Patent Owner’s requests for cancellation of claim 5 of the ’853 patent and for entry of adverse judgment are *granted*.

III. ORDER

For the foregoing reasons, it is

ORDERED that judgment is entered against Patent Owner under 37 C.F.R. § 42.73(b);

FURTHER ORDERED that a certificate canceling claim 5 of U.S. Patent No. 7,204,853 B2 will be issued in due course pursuant to 35 U.S.C. § 318(b) and 37 C.F.R. § 42.80;

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FURTHER ORDERED that this constitutes a final written decision under 35 U.S.C. § 318(a); and

FURTHER ORDERED that this proceeding is hereby terminated.

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