

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CELLTRION, INC. and SAMSUNG BIOEPSIS CO., LTD.,¹
Petitioner,

v.

REGENERON PHARMACEUTICALS, INC.,
Patent Owner.

IPR2023-00462
Patent 10,464,992 B2

Before JOHN G. NEW, SUSAN L. C. MITCHELL, and JAMIE T. WISZ,
Administrative Patent Judges.

WISZ, *Administrative Patent Judge.*

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

¹ Samsung Bioepsis Co., Ltd. filed a motion for joinder and a petition in IPR2023-01312 and has been joined as a petitioner in this proceeding. *See* Paper 30.

On January 17, 2023, Celltrion, Inc. (“Celltrion”) filed a Petition (Paper 2, “Pet.”) requesting an *inter partes* review of claims 1–18 of U.S. Patent No. 10,464,992 (Ex. 1001, “the ’992 patent”). We instituted *inter partes* review under 35 U.S.C. § 314(a). Paper 11 (“Inst. Dec.”). We joined Samsung Bioepsis Co., Ltd. (“Samsung”) as a petitioner in this proceeding, and we refer to Celltrion and Samsung collectively as “Petitioner.” *See* Paper 30.

Regeneron Pharmaceuticals, Inc. (“Patent Owner”) notified the Board, by email dated January 17, 2024, that it had filed a statutory disclaimer disclaiming claims 1–18 of the ’992 patent. *See* Ex. 3003. Patent Owner also filed a copy of the statutory disclaimer in this proceeding. *See* Ex. 2104. With the Board’s authorization, Patent Owner then filed an Unopposed Motion to Terminate Proceeding on January 22, 2024 in view of the disclaimer. Paper 35 (“Motion”). The Motion indicates that Petitioner does not oppose the Motion to Terminate Proceeding, but seeks to have the Board treat it as a request for adverse judgment under 37 C.F.R. § 42.73(b).

Patent Owner has disclaimed all claims of the ’992 patent and paid the requisite fees. *See* Ex. 2104; *see also* 37 C.F.R. § 1.321 (setting forth requirements for statutory disclaimer). Under 37 C.F.R. § 42.73(b), “[a]ctions construed to be a request for adverse judgment include . . . (2) [c]ancellation or disclaimer of a claim such that the party has no remaining claim in the trial.” Because Patent Owner has disclaimed all claims of the ’992 patent, we construe this disclaimer as a request for adverse judgment, and we enter adverse judgment against the Patent Owner with respect to claims 1–18 of the ’992 patent.

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Accordingly, it is
ORDERED that judgment is entered under 37 C.F.R. § 42.73(b)
against Patent Owner with respect to claims 1–18 of U.S. Patent
No. 10,464,992 B2; and
FURTHER ORDERED that this proceeding is terminated.

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