

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZTE CORPORATION AND ZTE (USA) INC.
Petitioner,

v.

CONTENTGUARD HOLDINGS INC.
Patent Owner.

Case IPR2013-00134 (JL)
Patent 7,225,160

Before JAMESON LEE, MICHAEL W. KIM, and MICHAEL R. ZECHER,
Administrative Patent Judges.

LEE, *Administrative Patent Judge.*

JUDGMENT
Request for Adverse Judgment
37 C.F.R. § 42.73(b)

Introduction

On July 24, 2013, the Patent Owner (“ContentGuard”) requested cancellation of claims 12-22 and 30-38, all of the involved claims in this *inter partes* review, and entry of adverse judgment. (Paper 28.) Petitioner (“ZTE”) did not file an

opposition within the ten (10) calendar day period it was provided for such an opposition (Paper 25), but in a conference call held on July 29, 2013, indicated that it desires and prefers that the Board does not act on ContentGuard's request until ZTE's Motion for Joinder in IPR2013-00454, filed on July 19, 2013, has been considered. In that motion, ZTE seeks to join IPR2013-00454 with this *inter partes* review.

Discussion

Under 35 U.S.C. § 42.73(b), a party may request judgment against itself at any time during a proceeding. 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.

ContentGuard has not only requested cancellation of all claims involved in this *inter partes* review, such that after the cancellation it will have no remaining claim in the trial, but also expressly requested entry of adverse judgment.

Although ZTE desires and prefers that the Board does not act on ContentGuard's request for cancellation of claims and request for entry of adverse judgment until such time as when ZTE's Motion for Joinder filed in IPR2013-00454 has been considered, the Board sees no reason for delay. The two cases have not yet been joined and this case is now ready for entry of judgment.

The Motion for Joinder in IPR2013-00454 does not, and should not, act as an automatic stay of this proceeding. While ZTE expressed its desire and preference that ContentGuard's Request for Entry of Adverse Judgment not be considered until the Motion for Joinder in IPR2013-00454 has been considered, it has not sought to file a motion to stay this proceeding.

Order

For the foregoing reasons, it is

ORDERED that ContentGuard's request to cancel claims 12-22 and 30-38 and request for entry of adverse judgment are *granted*;

FURTHER ORDERED that judgment is herein entered against ContentGuard with respect to claims 12-22 and 30-38 of Patent 7,225,160; and

FURTHER ORDERED that claims 12-22 and 30-38 of Patent 7,225,160 are herein cancelled.

Case IPR2013-00134
Patent 7,225,160

For PETITIONER:

Jon H. Beaupre
Richard K. DeMille
David Bluestone
Miyoung Shin
Peter Lee
Lawrence Chen
BRINKS HOFER GILSON AND LIONE
jbeaupre@brinkshofer.com
rdemille@brinkshofer.com
dbluestone@brinkshofer.com
mshin@brinkshofer.com
plee@brinkshofer.com
lchen@brinkshofer.com

For PATENT OWNER

Robert Greene Sterne
Jon E. Wright
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C
rsterne-PTAB@skgf.com
jwright-PTAB@skgf.com