

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CERTOR SPORTS, LLC and SCHUTT SPORTS, LLC,
Petitioner,

v.

APALONE, INC.,
Patent Owner.

IPR2022-00196
Patent 10,617,167 B2

Before HYUN J. JUNG, JAMES J. MAYBERRY, and
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

JUNG, *Administrative Patent Judge*.

ORDER
To Show Cause
Conduct of the Proceeding
37 C.F.R. § 42.5

Certor Sports, LLC and Schutt Sports, LLC (collectively, “Petitioner”) filed a Petition on November 15, 2021. Paper 3. Apalone, Inc. (“Patent Owner”) did not file a Preliminary Response. We instituted *inter partes* review and issued a Scheduling Order on April 21, 2022. Papers 7, 8.

The Scheduling Order set July 20, 2022, as the due date for filing Patent Owner’s Response to the Petition and a motion to amend the patent. Paper 8, 11. The parties did not file a notice of stipulation to extend any due date. According to the record, Patent Owner did not file a response nor a motion to amend the patent by the due date. Additionally, the Scheduling Order instructed Patent Owner to arrange for a conference call with the Board if Patent Owner elects not to file a response to the Petition. *Id.* at 9. Patent Owner did not arrange for such a conference call.

Pursuant to our rules, “[a]ctions construed to be a request for adverse judgment include . . . [a]bandonment of the contest.” 37 C.F.R. § 42.73(b)(4). Patent Owner’s failure to file substantive papers in this proceeding is consistent with abandonment of the contest. Absent good cause, we will enter adverse judgment against Patent Owner.

ORDER

Accordingly, in view of the above, it is

ORDERED that, within ten (10) business days of the date of this Order, Patent Owner must file a paper not exceeding five (5) pages of argument to show good cause why adverse judgment under 37 C.F.R. § 42.73(b)(4) should not be entered against it; and

FURTHER ORDERED that, upon failure to respond or absent a showing of good cause, adverse judgment will be entered against Patent Owner as to the claims upon which trial was instituted.

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For PETITIONER:

Thad Kodish
Karan Jhurani
Erin Alper
FISH & RICHARDSON P.C.
tkodish@fr.com
jhurani@fr.com
alper@fr.com

For PATENT OWNER:

Brian Lynch
NIRO McANDREWS, LLC
blynch@niro-mcandrews.com