

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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UNIFIED PATENTS INC.,  
Petitioner,

v.

ARSUS, LLC,  
Patent Owner.

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IPR2020-00948  
Patent 10,259,494 B2

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Before HYUN J. JUNG, RICHARD J. SMITH, and  
JASON W. MELVIN, *Administrative Patent Judges*.

MELVIN, *Administrative Patent Judge*.

ORDER  
Denying Patent Owner's Motion to Vacate Judgment  
*37 C.F.R. § 42.5*

Unified Patents, Inc., filed a Petition (Paper 1, “Pet.”) requesting institution of *inter partes* review of claims 1–5, 8–12, 21, and 22 (“the challenged claims”) of U.S. Patent No. 10,259,494 B2 (Ex. 1001, “the ’494 patent”). After Arsus, LLC, (“Patent Owner”) filed a Preliminary Response, we instituted review. Paper 15.

On December 9, 2020, Patent Owner filed a “Motion to Dismiss.” Paper 17 (“Motion”). In the Motion, Patent Owner included a copy of a statutory disclaimer pursuant to 37 C.F.R. § 1.321(a), in which Patent Owner disclaimed all interest in the challenged claims. Motion 4–6. We determined that, pursuant to our rules, the disclaimer and Motion constituted a request for adverse judgment. Paper 18, 2 (“Judgment”) (citing 37 C.F.R. § 42.73(b)). Accordingly, our Judgment followed the regulatory framework.

Patent Owner filed, on January 29, 2021, a Motion to Vacate Judgment. Paper 19 (“Motion to Vacate”).<sup>1</sup> In the Motion to Vacate, Patent Owner submits that the Board did not have jurisdiction to enter the Judgment because Patent Owner’s disclaimer mooted the Petition and “deprived the Board of subject matter jurisdiction.” Motion to Vacate 3–4 (emphasis omitted). Patent Owner relies on *Sanofi-Aventis U.S. v. Dr. Reddy’s Laboratories, Inc.*, 933 F.3d 1367, 1373–75 (Fed. Cir. 2019) to argue that the disclaimer removed our ability to issue the Judgment. That case, however, concerned a district court’s jurisdiction under Article III of

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<sup>1</sup> Patent Owner did not, as required by our rules, request authorization for its Motion to Vacate. *See* 37 C.F.R. § 42.20(b). Because the motion presents a simple issue and retroactively requiring authorization would impair this proceeding’s efficiency without a meaningful benefit, we consider the motion notwithstanding that it lacked authorization. *See* 37 C.F.R. § 42.5(b).

IPR2020-00948  
Patent 10,259,494 B2

the Constitution. *Sanofi-Aventis*, 933 F.3d at 1372–73. Patent Owner has not shown that the same requirements apply to the Board, which is not a district court or any other Article III court. Nor has Patent Owner shown that we should depart from the regulatory framework cited above. Accordingly, the Motion to Vacate is denied.

Accordingly, it is

ORDERED that Patent Owner’s Motion to Vacate Judgment is  
DENIED.

IPR2020-00948  
Patent 10,259,494 B2

PETITIONER:

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