

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner

v.

ANCORA TECHNOLOGIES INC.
Patent Owner

Case CBM2016-00023
Patent 6,411,941 B1

Before JONI Y. CHANG, MICHAEL W. KIM, and KEVIN W. CHERRY,
Administrative Patent Judges.

CHANG, *Administrative Patent Judge.*

JUDGMENT
Termination of Proceeding
37 C.F.R. § 42.73

On April 25, 2016, Apple Inc. (“Apple”) and Ancora Technologies Inc. (“Ancora”) filed a joint motion to terminate the instant proceeding in view of the parties’ agreement to settle their disputes. Paper 6. The parties also filed a true copy of their written settlement agreement made in connection with the termination of the instant proceeding (Ex. 1030), and a joint request to have their settlement agreement treated as confidential business information under 37 C.F.R. § 42.74(c). Paper 6, 3.

Generally, the Board expects that a covered business method patent review will terminate after the filing of a settlement agreement. *See, e.g., Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). Here, in their joint motion to terminate, the parties represent that they agreed to settle their respective claims against each other in the settlement agreement executed by the parties. Paper 6, 1–2. The parties also indicate that they have resolved their disputes. *Id.* In particular, the district court proceedings¹ related to the instant proceeding have been dismissed. *Id.* at 2. The parties agreed to refrain, to the extent permitted by law, from further participation in this proceeding. *Id.* at 3.

Apple’s petition was filed on January 8, 2016, but Ancora has not filed its patent owner preliminary response. Further, the Board has not decided whether to institute a covered business method patent review. Even if the Board institutes a review and commences a trial, Apple will no longer participate. That means even if a review is instituted, Apple will not file a reply to any patent owner response or an opposition to any motion to amend

¹ *Ancora Techs., Inc. v. Apple, Inc.*, No. 4:11-cv-6357 (N.D. Cal.), filed December 15, 2011, and *Ancora Techs., Inc. v. Apple, Inc.*, No. 4:15-cv-3659 (N.D. Cal.), filed August 11, 2015.

claims. Apple also will not be conducting any cross examination of Ancora's witnesses. In addition, Ancora may not have an opportunity to cross examine Apple's witness whose testimony is relied upon by Apple's petition.

As no trial has been instituted based on Apple's petition, the instant proceeding is in the preliminary proceeding stage.² Based on the particular facts of this case, it is appropriate to enter judgment.³

In consideration of the foregoing, it is:

ORDERED that the joint motion to terminate CBM2016-00023 is *granted*, and this proceeding hereby is terminated as to all parties including Apple and Ancora; and

FURTHER ORDERED that the parties' joint request to have their settlement agreement treated as business confidential information under 37 C.F.R. § 42.74(c) is *granted*.

² A preliminary proceeding begins with the filing of a petition for instituting a trial and ends with a written decision as to whether a trial will be instituted. 37 C.F.R. § 42.2.

³ A judgment means a final written decision by the Board, or a termination of a proceeding. 37 C.F.R. § 42.2.

CBM2016-00023

Patent 6,411,941

PETITIONER:

David L. Fehrman

Richard S. J. Hung

Diek Van Nort

MORRISON & FOERSTER LLP

dfehrman@mofo.com

rhung@mofo.com

dvannort@mofo.com

PATENT OWNER:

John P. Rondini

John S. LeRoy

Mark A. Cantor

Marc Lorelli

Mark A. Jotanovic

BROOKS KUSHMAN P.C.

Ancc0112cbmr1@brookskushman.com