

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PRICE f(x) AG AND PRICE f(x), INC.
Petitioner,

v.

VENDA VO, INC.,
Patent Owner.

Case CBM2019-00019 (Patent 7,308,421 B2)
Case CBM2019-00020 (Patent 8,396,814 B2)
Case CBM2019-00022 (Patent 8,412,598 B2)
Case CBM2019-00023 (Patent 7,912,792 B2)
Case CBM2019-00024 (Patent 7,640,198 B2)¹

Before JOSIAH C. COCKS, WILLIAM V. SAINDON, and
MIRIAM L. QUINN, *Administrative Patent Judges*.

COCKS, *Administrative Patent Judge*.

TERMINATION
Due to Settlement After Institution of Trial
35 U.S.C. § 327; 37 C.F.R. § 42.74

¹ This Order is relevant to each of the noted proceedings. The Board exercises its discretion to issue a single Order for entry in each proceeding. The parties are not authorized to use this heading style for any subsequent papers.

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I. Introduction

On September 25, 2019, Price f(x) AG and Price f(x), Inc. (“Price f(x)”) and Vendavo, Inc. (“Vendavo”) (collectively the “parties”) filed a Joint Motion to Terminate in each of the noted five Covered Business Method (“CBM”) reviews.^{2, 3} Along with the Joint Motions to Terminate, the parties filed true copies of a written settlement agreement (Ex. 1100 in each proceeding), as well as joint requests to have the settlement agreement treated as business confidential information under 35 U.S.C. § 327 and 37 C.F.R. § 42.74(c).⁴

II. Discussion

The parties are reminded that the Board is not a party to the settlement, and may identify independently any question of patentability. 37 C.F.R. § 42.74(a). Generally, however, the Board expects that a proceeding 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). Under 35 U.S.C. § 327(a), “[a] post grant review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and patent owner, unless the Office has decided the

² *See* CBM2019-00019, Paper 23; CBM2019-00020, Paper 22; CBM2019-00022, Paper 20; CBM2019-00023, Paper 20; CBM2019-00024, Paper 19.

³ The filings were authorized in e-mail correspondence from Board personnel on September 25, 2019.

⁴ *See* CBM2019-00019, Paper 24; CBM2019-00020, Paper 23; CBM2019-00022, Paper 21; CBM2019-00023, Paper 21; CBM2019-00024, Paper 20.

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merits of the proceeding before the request for termination is filed.” The requirement for terminating review with respect to Price f(x) is met.

Furthermore, under 35 U.S.C. § 327(a), “[i]f no petitioner remains in the post grant review, the Office may terminate the review or proceed to a final written decision under section 328(a).” Price f(x) is the sole petitioner in each CBM review, such that termination with respect to Price f(x) means that no petitioner remains in any of the proceedings. The Board, thus, has discretion to terminate the reviews with respect to Vendavo.

The panel entered a Decision to institute trial: in CBM2019-00019 and -00020 on July 2, 2019 (Papers 18 and 17, respectively); in CBM2019-00022 and -00023 on August 5, 2019 (Paper 17 in each proceeding); and in CBM2019-00024 on August 26, 2019 (Paper 17). Vendavo has filed no Patent Owner Response in any of the proceedings. Thus, briefing is not complete. The parties also state that they “have fully resolved their dispute” in connection with each involved patent and that Vendavo “has agreed to withdraw its claim of infringement of [each patent] against [Price f(x)] . . . and dismiss the claim with prejudice.” *See, e.g.*, CBM2019-00019, Paper 23, 2.

Upon consideration of the circumstances of these cases, the panel has determined to terminate all of the CBM reviews as to both Price f(x) and Vendavo without rendering a final written decision in any of the involved proceedings.

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III. Order

It is

ORDERED that the Joint Motion to Terminate filed in each proceeding is *granted*, and the proceedings are hereby *terminated*; and

FURTHER ORDERED that, as was requested timely by the parties, the settlement agreement filed in each proceeding will be treated as business confidential information under 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(c).

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