

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GENERAL GROWTH PROPERTIES, INC.,
THE MACERICH PARTNERSHIP, L.P., and
WESTFIELD CONCESSION MANAGEMENT, LLC,
Petitioners,

v.

GEORGE PESCHKE,
Patent Owner.

Case IPR2013-00400
Patent 6,397,143

Before MICHAEL R. ZECHER, JUSTIN T. ARBES, and
RICHARD E. RICE, *Administrative Patent Judges*.

RICE, *Administrative Patent Judge*.

TERMINATION
Termination of Proceeding
37 C.F.R. § 42.72

On April 6, 2014, Patent Owner and Petitioners, General Growth Properties, Inc., The Macerich Partnership, L.P. and Westfield Concession Management, LLC (collectively, “Petitioners”),¹ filed a joint motion (Paper 31) to terminate this *inter partes* review, as well as a joint request (Paper 32) to have their settlement agreements treated as confidential business information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). The parties also filed true copies of their written settlement agreements. Exs. 2002, 2003, and 2004. The parties stated in their joint motion that they “have settled their dispute, and have reached agreement to terminate this *inter partes* review.” Paper 31, 2. In addition, the parties identified eight pending district court litigations involving U.S. Patent No. 6,397,143 (“the ’143 Patent”). *Id.* at 4-7. The parties also identified ten other district litigations (including the settled litigations between Patent Owner and Petitioners, referenced above) involving the ’143 Patent that either have been terminated already, or are pending termination pursuant to a settlement agreement. *Id.*

Under 35 U.S.C. § 317(a), “[a]n *inter partes* 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 merits of the proceeding before the request for termination is filed.” The Board instituted a trial in this proceeding on November 8, 2013, (Paper 19) but has not decided the merits of the proceeding.

Further, under 37 C.F.R. § 42.74(b), “[a]ny agreement or understanding between the parties made in connection with, or in contemplation of, the termination of a proceeding shall be in writing and a

¹ This proceeding has been terminated with respect to two of the original Petitioners, Boulevard Invest LLC and MOAC Mall Holdings, LLC.

true copy shall be filed with the Board before termination of the trial.” *See also* 37 C.F.R. §§ 42.72; 42.73(a). As the parties have filed their written settlement agreements, and the litigation related to this proceeding has been settled, we determine that it is appropriate to terminate this proceeding with respect to Petitioners without rendering a final written decision. *See* 37 C.F.R. §§ 42.72; 42.73(a); 42.74.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the joint request of the parties that the settlement agreements (Exhibits 2002, 2003, and 2004) be treated as business confidential information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) is GRANTED; and

ORDERED that the joint motion of Patent Owner and Petitioners to terminate this proceeding is GRANTED, and this proceeding is hereby terminated.

Case IPR2013-00400

Patent 6,397,143

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