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Paper No. 57
Filed: October 31, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CLIO USA, INC.,
Petitioner,

v.

THE PROCTER AND GAMBLE COMPANY,
Patent Owner.

Case IPR2013-00438
Patent 5,894,017

Before LINDA M. GAUDETTE, JAMES P. CALVE, and
SCOTT E. KAMHOLZ, *Administrative Patent Judges*.

KAMHOLZ, *Administrative Patent Judge*.

JUDGMENT
Termination of the Proceeding
37 C.F.R. § 42.72

The parties filed a joint motion to terminate the instant proceeding (Paper 54 (“Mot.”)), and a true copy of their written settlement agreement (Ex. 2038) made in connection with the termination, in accordance with 35 U.S.C. § 317 and 37 C.F.R. § 42.74(b). The parties also jointly requested that their settlement agreement be treated as business confidential information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 55.

For the reasons provided below, the joint motion to terminate is granted. The joint request that the settlement agreement be treated as business confidential information is also granted.

While the parties may agree to settle their issues related to the involved patent, the Board is not a party to the settlement and may determine independently any question of patentability. 37 C.F.R. § 42.74(a).

The Board has not yet decided the merits of this proceeding. The parties represent that the ’017 patent is the subject of a district court action, *Procter & Gamble Co. v. Team Techs., Inc.*, No. 1:12-cv-00552-TSB (S.D. Ohio), in which a consent judgment has been requested. Mot. 2. The parties further represent that these matters are covered by the settlement agreement. *Id.*

In view of the parties’ settlement agreement made in connection with the termination in accordance with 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b), we determine that it is appropriate to terminate the involvement of Petitioner. Moreover, we determine that it also is appropriate to terminate the proceeding with respect to Patent Owner, because we have not yet decided the merits of this proceeding. As a result, it is appropriate to enter judgment in the form of termination. *See* 37 C.F.R. § 42.2.

Accordingly, it is

ORDERED that the joint motion to terminate IPR2013-00438 is *granted*, and this proceeding is hereby terminated as to all parties, including Petitioner Clio USA, Inc. and Patent Owner The Procter & Gamble Company; and

FURTHER ORDERED that the joint request that the settlement agreement be treated as business confidential information and be kept separate from the patent files under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) is *granted*.

IPR2013-00438
Patent 5,894,017

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