

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WMS GAMING INC.,
Petitioner,

v.

MGT GAMING, INC.,
Patent Owner.

Case IPR2014-00120
Patent No. 7,892,088 B2

Before RICHARD E. RICE, CHRISTOPHER L. CRUMBLEY, and
CARL M. DEFRANCO, *Administrative Patent Judges*.

CRUMBLEY, *Administrative Patent Judge*.

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

On July 8, 2014, pursuant to Board authorization, Petitioner WMS Gaming Inc. and Patent Owner MGT Gaming, Inc., filed a joint motion to terminate this *inter partes* review. Paper 16. With the joint motion, the parties filed a copy of

their written settlement agreement covering various matters involving Patent No. 7,892,088 B2, the subject of this *inter partes* review. Ex. 1009. The parties concurrently filed a joint request to have the settlement agreement treated as confidential business information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 17.

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.” In this proceeding, the Board instituted trial on April 30, 2014 (Paper 10), but has not yet reached a decision on the merits with respect to the patentability of any involved claim. Accordingly, the requirement for terminating review with respect to WMS, as petitioner, is met.

Also under 35 U.S.C. § 317(a), “[i]f no petitioner remains in the *inter partes* review, the Office may terminate the review or proceed to a final written decision under section 318(a).” WMS is the sole petitioner. The Board, therefore, has discretion to terminate this review with respect to the patent owner MGT. In their joint motion, the parties contend that termination is appropriate because the parties jointly request termination and the Board has not yet decided the merits of the proceeding. Paper 16, 2. The joint motion also indicates that in co-pending district court litigations between MGT and WMS asserting infringement of Patent No. 7,892,088 B2, MGT sought and obtained dismissals with prejudice of all its pending claims. *Id.* at 4. The parties identify no pending related *inter partes* reviews. *Id.* at 5.

Based on the record before us, we determine that it is appropriate to terminate this *inter partes* review both as to petitioner WMS and patent owner MGT without rendering a final written decision. See 35 U.S.C. § 317(a); 37 C.F.R. § 42.72.

In light of the foregoing, it is

ORDERED that the parties' joint request to have their settlement agreement (Exhibit 1009) treated as business confidential information, to be kept separate from the patent file, is *granted*;

FURTHER ORDERED that the joint motion to terminate this proceeding with respect to WMS is *granted*;

FURTHER ORDERED that the Board exercises its discretion to *grant* termination with respect to MGT; and

FURTHER ORDERED that this *inter partes* review is hereby *terminated*.

Case IPR2014-00120
Patent No. 7,892,088 B2

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