

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

WHITSERVE, LLC,
Patent Owner.

Case IPR2014-00268
Patent 7,921,139 B2

Before KARL D. EASTHOM, DONNA M. PRAISS, and
JO-ANNE M. KOKOSKI, *Administrative Patent Judges*.

EASTHOM, *Administrative Patent Judge*.

JUDGMENT
Termination of the Proceedings
35 U.S.C. § 317
37 C.F.R. §§ 42.72, 42.73, 42.74

On August 19, 2014, the parties filed a joint motion to terminate this proceeding, with a true copy of their written settlement agreement (Ex. 2001), made in connection therewith, in accordance with 35 U.S.C. § 317 and 37 C.F.R. § 42.74(b). Paper 26. The joint motion further requests the settlement agreement (Ex. 2001) be treated as business confidential information under 35 U.S.C. §317(b) and 37 C.F.R. § 42.74(c). *Id.*

The joint motion to terminate states that the parties jointly request termination of the proceeding and that termination is proper because the proceeding is at a preliminary stage. *See* Paper 26. As the motion notes, we instituted trial on May 19, 2014. *Id.*; Paper 17. At this preliminary stage in the proceeding, the record lacks full briefing on the trial issues.

The motion also states that the agreement requires dismissal, with prejudice, of the only related district court lawsuit involving the parties and patent at issue. Paper 26. Toward that end, the parties attached “a copy of the Stipulated Dismissal and Proposed Order of Dismissal filed in the related litigation pursuant to the Settlement Agreement.” *Id.* at 2 (citing Ex. 2002).

Based on the foregoing, the record warrants treating the settlement agreement (Ex. 2001) as business confidential and entering judgment by terminating the proceeding without rendering a final written decision. *See* 35 U.S.C. § 317(a); 37 C.F.R. §§ 42.72 (termination), 42.73 (judgment generally), 42.74 (settlement). A judgment “means a final written decision by the Board, or a termination of a proceeding.” 37 C.F.R. § 42.2.

It is

ORDERED that the joint motion is *granted*;

FURTHER ORDERED that IPR2014-00268 is *terminated*; and

FURTHER ORDERED that the settlement agreement (Ex. 2001) *be treated as business confidential information*, kept separate from the patent files, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

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FOR PETITIONER:

Jeffrey P. Kushan
Sidley Austin LLP
jkushan@sidley.com

Hector Ribera
Fenwick & West LLP
hribera@fenwick.com

FOR PATENT OWNER:

Gene Winter
Walter B. Welsh
Jonathan A. Winter
St. Onge Steward Johnson & Reens, LLC
litigation@ssjr.com
wwelsh@ssjr.com
jwinter@ssjr.com