

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AXIS COMMUNICATIONS, INC. and AXIS COMMUNICATIONS AB,
Petitioner,

v.

CANATELO, LLC,
Patent Owner.

Case IPR2014-00394 (Patent 6,476,858 B1)
Case IPR2014-00396 (Patent 7,310,111 B1)

Before NEIL T. POWELL, MIRIAM L. QUINN, and STACEY G. WHITE,
Administrative Patent Judges.

QUINN, *Administrative Patent Judge.*

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

On June 30, 2014, the parties filed a joint motion to terminate the instant proceedings pursuant to a settlement agreement. IPR2014-00394, Paper 10; IPR2014-00396, Paper 10.¹ The parties also filed a true copy of their written settlement agreement, made in connection with the termination of the instant proceedings, in accordance with 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b). Ex. 1. Additionally, the parties submitted a joint motion to have their settlement agreement treated as confidential business information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 9.

The instant proceedings are in the preliminary stage. The Board has not determined whether trial will be instituted in the instant request for *inter partes* review of US Patent Nos. 6,476,858 and 7,310,111 (“the challenged patents”).

In their joint motion to terminate, the parties indicate that they have settled their dispute concerning the challenged patents, and the parties agree that the instant proceedings should be terminated as to both parties because the Board has not decided the merits of the proceedings. Paper 10, 1. Petitioner does not appear to be the sole defendant in the related litigation. Nevertheless, Petitioner asserts that it will not participate further in these proceedings, even if it is not terminated with respect to Petitioner. *Id.* at 2.

The parties submit that termination is appropriate because Petitioner and Patent Owner are jointly requesting termination. *Id.* Neither Petitioner nor Patent Owner requested a conference call with the Board to request authorization to file either the joint motion for termination or the joint motion to keep the settlement agreement confidential pursuant to the

¹ The filings in each of these proceedings are identical, and, therefore, we refer from here on to the filings in case IPR2014-00394.

Board's procedures. *See* 37 C.F.R. § 42.20(b). We admonish the parties that the Board requires prior approval to file a motion to terminate and a motion to maintain the settlement agreement confidential. That approval process not only provides the Board with information regarding the status of an ongoing case to which resources are allocated, but also notifies the interested public that the case may be concluded if a motion for termination is granted. The failure to seek authorization to file a motion may result in the unauthorized filing being expunged.

In this case, the proper procedure was not followed. The panel notes, however, that in the past ten business days since the filing of the motions, we have not been made aware of substantial public interest or other district-court-case activity that weighs in favor of either making a determination of whether to institute trial or expunging the unauthorized motions.

Upon consideration of the requests before us, the early juncture of the proceeding, and the interests of justice, terminating the instant proceedings with regard to both Petitioner and Patent Owner promotes efficiency and minimizes unnecessary costs. Based on the facts of this case, it is appropriate to enter judgment.² *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72.

Accordingly, it is:

ORDERED that the joint motions to terminate IPR2014-00394 and IPR2014-00396 are *granted*;

FURTHER ORDERED that the instant proceedings are hereby *terminated* as to all parties, including Petitioner and Patent Owner; and

² A *judgment* means a final written decision by the Board, or a *termination of a proceeding*. 37 C.F.R. § 42.2.

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FURTHER ORDERED that the parties' joint requests that the settlement agreement be treated as business confidential information kept separate from the patent file, 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), are *granted*.

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