

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BROOKWOOD COMPANIES INCORPORATED,
Petitioner,

v.

NEXTEC APPLICATIONS, INC.,
Patent Owner.

IPR2014-00412
Patent 5,004,643

Before LINDA M. GAUDETTE, JACQUELINE WRIGHT BONILLA, and
MICHELLE R. OSINSKI, *Administrative Patent Judges*.

OSINSKI, *Administrative Patent Judge*.

JUDGMENT
Termination of the Proceeding
35 U.S.C. § 317(a); 37 C.F.R. § 42.72

On December 3, 2014, pursuant to 35 U.S.C. § 317(a), the parties filed a Joint Motion to terminate this proceeding. Paper 26. Accompanying the Motion, the parties filed a true copy of a settlement agreement along with a Joint Request to treat the settlement agreement as business confidential, to be kept separate from the

patent file under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Ex. 2005; Paper 25. We authorized the filing of these papers in a Board email dated November 15, 2014.

We entered a Decision to Institute an *inter partes* review in this case on August 7, 2014, and conducted an initial conference call on September 8, 2014. Papers 13, 19. Beyond the filing by Patent Owner of a Response to the Petition on October 31, 2014, (Paper 24), little additional significant activity has occurred in this proceeding. The parties explain that (i) the briefing and discovery process has not yet been completed, (ii) Petitioner has not filed a Reply, and (iii) there are no motions pending. Paper 26, 1. At this juncture of the proceeding, the Board does not have before it full briefing on the trial issues and the Board has not entered a final decision.

The Joint Motion to terminate this proceeding indicates that there is no litigation pending between the parties involving the challenged patent, U.S. Patent No. 5,004,643 (“the ’643 patent”), as all district court proceedings involving the ’643 patent have been closed. *Id.* at 2. The parties indicate that reexamination of the ’643 patent (Reexamination Control No. 90/012,968) remains pending, with Patent Owner having filed a Reply Brief on November 12, 2014. Based on the facts of the case, it is appropriate to enter judgment¹ and terminate the proceedings without rendering a final written decision. *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72. Thus, the joint motion to terminate the proceeding is granted.

¹ A judgment means a final written decision by the Board, or a termination of a proceeding. 37 C.F.R. § 42.2.

Accordingly, it is

ORDERED that the parties' joint request that the settlement agreement be treated as business confidential information, to be 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) is *granted*;

FURTHER ORDERED that the joint motion to terminate the proceeding is *granted*; and

FURTHER ORDERED that the proceeding is *terminated*.

IPR2014-00412
Patent 5,004,643

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