

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETGEAR, INC.,
Petitioner

v.

CHARLES C. FREENY III, BRYAN E. FREENY,
AND JAMES P. FREENY,
PATENT OWNER.

Case IPR2014-00704
Patent 7,110,744 B2

Before HOWARD B. BLANKENSHIP, PHILLIP J. KAUFFMAN and
MICHAEL W. KIM, *Administrative Patent Judges*.

KAUFFMAN, *Administrative Patent Judge*.

JUDGMENT
TERMINATION OF THE PROCEEDING

37 C.F.R. § 42.73

On August 20, 2014, the parties filed a JOINT REQUEST TO TERMINATE AND SEAL, seeking to terminate the proceedings and to seal the settlement agreement as business confidential information to be kept separate from the patent file (Paper 7). *See* 35 U.S.C. § 317; 37 C.F.R. § 42.74. The parties also filed a true copy of the written settlement agreement. Ex. 1017. Although the parties did not receive authorization to file this motion as required by 37 C.F.R. § 42.20(b), because there is no apparent prejudice, we waive that requirement pursuant to our authority under 37 C.F.R. § 42.5(b).

At the time the request was filed, this matter was in the preliminary proceeding stage¹ and the Office had not decided the merits of this proceeding. There are no collateral agreements referred to in the settlement agreement. *See* Ex. 1017 ¶ 8.3. The settlement agreement provides that, following termination, the parties will file a joint motion to dismiss with prejudice the related lawsuit between Petitioner and Patent Owner involving US patent 7,110,744, in the Eastern District of Texas.² *Id.* ¶ 3.5. Under these circumstances, the Board determines that it is appropriate to enter judgment³ and terminate the trial without rendering a final written decision. 37 C.F.R. § 42.72.

It is, therefore,

ORDERED that the joint motion to terminate the proceeding is GRANTED and the proceeding is hereby terminated; and

¹ “Preliminary proceeding” is defined as the period from the filing of a petition for instituting a trial to the written decision as to whether a trial will be instituted. 37 C.F.R. § 42.2.

² Identified as *Charles C. Freeny III, Bryan E. Freeny, and James P. Freeny v. Netgear, Inc.*, No. 2:13-CV-00367-JRG (E.D. Tex.).

³ A judgment means a final written decision by the Board, or a termination of a proceeding. 37 C.F.R. § 42.2.

FURTHER ORDERED that the parties' joint request that the settlement agreement be treated as business confidential information, which shall be kept separate from the file of the involved patents under the provisions of 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(c), is GRANTED.

PETITIONER:

Marc S. Kaufman
Gerard M. Donovan
mkaufman@reedsmith.com
gdonovan@reedsmith.com

PATENT OWNER:

Marc Brockhaus
Ann Robl
mbrockhaus@dunlapcoddling.com
arobl@dunlapcoddling.com