

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NAUTIQUE BOAT COMPANY, INC.,
Petitioner,

v.

MALIBU BOATS, LLC,
Patent Owner.

Case IPR2014-01045
Patent 8,539,897 B1

Before MICHAEL W. KIM, DONNA M. PRAISS, and
KRISTINA M. KALAN, *Administrative Patent Judges*.

KALAN, *Administrative Patent Judge*.

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

The parties have requested that the above-captioned proceeding be terminated pursuant to a settlement. The Board authorized the parties to file a joint request to terminate the above-captioned proceeding on February 12, 2015.

On February 20, 2015, the parties filed a joint motion to terminate the above-captioned proceeding pursuant to 35 U.S.C. § 317 (Paper 20); a joint request to file the settlement agreement as business confidential information, to be kept separate from the patent file pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (Paper 21); and a copy of the settlement agreement (Ex. 3002).

Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement. *See, e.g.*, Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). 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 the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” The requirement for terminating review with respect to Petitioner is met.

Under 35 U.S.C. § 317(a), “[if] 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).” Nautique Boat Company, Inc. is the sole petitioner in this review. The Board has discretion to terminate this review with respect to Malibu Boats, LLC as Patent Owner.

Petitioner filed a Petition on June 27, 2014. Patent Owner filed a Preliminary Response to the Petition on September 26, 2014. The Board instituted *inter partes* review on November 26, 2014. Patent Owner has not yet filed a Patent Owner Response. This proceeding has not resulted in a final decision on the merits.

The joint motion to terminate indicates that the parties settled their disputes involving U.S. Patent No. 8,539,897 B1 (“the ’897 patent”). Paper 20, 1. The joint motion to terminate further indicates that (1) the parties have settled their dispute and reached a written settlement that includes an agreement to terminate this *inter partes* review; and (2) the district court proceeding between the parties involving the ’897 patent, *Malibu Boats, LLC v. Nautique Boat Company, Inc.*, Case No. 3:13-cv-0656 (E.D. Tenn.), was dismissed with prejudice on February 17, 2015. *Id.* at 1–2.

Based on the facts of the case, it is appropriate to terminate the proceeding as to both Petitioner and Patent Owner. Therefore, the joint motion to terminate and the request to file the settlement agreement as business confidential information are *granted*.

Accordingly, it is

ORDERED that the joint motion to file the settlement agreement as business confidential information, to be kept separate from the patent file, is *granted*;

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

FURTHER ORDERED that the proceeding is *terminated*.

IPR2014-01045
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