

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE SCOTTS COMPANY LLC,
Petitioner,

v.

ENCAP, LLC,
Patent Owner.

Case IPR2014-01110
Patent 8,474,183 B2

Before LORA M. GREEN, JAMES P. CALVE, and RAMA G. ELLURU,
Administrative Patent Judges.

ELLURU, *Administrative Patent Judge*.

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

I. DISCUSSION

On March 10, 2015, the parties filed a Joint Motion to terminate this proceeding (Paper 13), as well as a Joint Request (Paper 14) to have their settlement agreement treated as business confidential information under

35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). The parties also filed a true copy of their settlement agreement. Ex. 2011. The parties indicate in their Joint Motion that termination of this proceeding is appropriate because they have reached an agreement regarding their dispute with respect to this *inter partes* review. See Paper 13, 1. The parties indicate that they have agreed to move to dismiss the related district court litigation involving the '183 patent. *Id.*

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 patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” As the parties indicate in their Joint Motion, this proceeding is in its early stages. Paper 13, 1. We instituted an *inter partes* review of the '183 patent on January 9, 2015 (Paper 11), but Patent Owner has not yet filed a Patent Owner Response.

Further, under 37 C.F.R. § 42.74(b), “[a]ny agreement or understanding between the parties made in connection with, or in contemplation of, the termination of a proceeding shall be in writing and a true copy shall be filed with the Board before termination of the trial.” As the parties have filed their written settlement agreement, and the parties have agreed to move to dismiss the related district court litigation, we determine it is appropriate to terminate this proceeding without rendering a Final Written Decision as to the patentability of the challenged claims of the '183 patent. See 37 C.F.R. §§ 42.72, 42.73, 42.74.

II. ORDER

Accordingly, it is:

ORDERED that the parties' Joint Motion to terminate this proceeding is *granted*;

FURTHER ORDERED that the parties' Joint Request that the settlement agreement (Ex. 2011) be treated as business confidential information, to be kept separate from the patent file, is *granted*; and

FURTHER ORDERED that this proceeding is *terminated*.

IPR2014-01110
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