

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,
Petitioner,

v.

RPX CLEARINGHOUSE LLC¹,
Patent Owner.

Case IPR2014-01167
Patent 6,778,653 B1

Before JAMESON LEE, JEREMY M. PLENZLER and KEVIN W. CHERRY,
Administrative Patent Judges.

CHERRY, *Administrative Patent Judge.*

ORDER
Termination of Proceedings
37 C.F.R. § 42.72

¹ On February 9, 2015, RPX Clearinghouse LLC filed an updated mandatory disclosure in this proceeding notifying the Board that the patent at issue in this proceeding had been transferred to it on January 28, 2015. Paper 11, 2. We have updated the caption in this proceeding to reflect that transfer.

On February 20, 2015, a joint motion to terminate this *inter partes* review was filed by Petitioner, Cisco Systems, Inc., and Patent Owner, RPX Clearinghouse LLC. Paper 16. Also, on February 20, 2015, Petitioner and Patent Owner filed a copy of their written settlement agreement covering Patent 6,778,653 B1 involved in this *inter partes* review (Ex. 1010). Petitioner and Patent Owner also filed a joint request 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 18. We authorized the filing of these papers.

Petitioner and Patent Owner represent that the settlement agreement filed as Exhibit 1010 is a copy of their settlement agreement, and is the only settlement agreement between the parties. Paper 16, 7.

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).” Cisco Systems, Inc. is the sole petitioner in this review. The Board has discretion to terminate this review with respect to Patent Owner.

Petitioner and Patent Owner indicate that related lawsuit between Petitioner and Patent Owner involving Patent 6,778,653 B1 has been dismissed already. Paper 16, 7.

Patent Owner has not yet filed a Patent Owner Response in this proceeding. The Board determines that, in these circumstances, it is appropriate to terminate review both as to Petitioner and Patent Owner without rendering a final written decision. See 35 U.S.C. § 317(a); 37 C.F.R. § 42.72.

Both parties request that the Settlement Agreement be kept separate and treated as business confidential information under 37 C.F.R. § 42.74(b). Paper 18, 2. The Joint Request to File the Agreement as Business Confidential Information was filed along with the Settlement Agreement, and both were filed before termination of the proceeding. *Id.* Accordingly, the Joint Request is granted. Pursuant to 37 C.F.R. § 42.74(c), the Settlement Agreement “shall only be available (1) [t]o a Government agency on written request to the Board; or (2) [t]o any other person upon written request to the Board to make the settlement agreement available, along with the fee specified in [37 C.F.R. §42.15(d)] and on a showing of good cause.” We also will change the status designation in the Patent Review Processing System (PRPS) for the Settlement Agreement (Ex. 1010) from “Parties and Board Only” to “Board Only.”

Accordingly, it is

ORDERED that the parties’ joint request that the settlement agreement (Ex. 1010) be treated as business confidential information, to be kept separate from the file of U.S. Patent No. 6,778,653 B1 is *granted*;

FURTHER ORDERED that the Settlement Agreement (Ex. 1010) shall be made available only pursuant to the provisions of 37 C.F.R. § 42.74(c);

FURTHER ORDERED that the status of the Settlement Agreement (Ex. 1010) shall be changed in Patent Review Processing System (PRPS) from “Parties and Board Only” to “Board Only;”

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

FURTHER ORDERED that the proceeding is *terminated*.

IPR2014-01167
Patent 6,778,653 B1

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