

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EMC CORPORATION,
Petitioner,

v.

SELENE COMMUNICATION
TECHNOLOGIES, LLC,
Patent Owner.

Case IPR2015-00856
Patent 6,363,377 B1

Before JONI Y. CHANG, TINA E. HULSE, and JASON J. CHUNG,
Administrative Patent Judges.

CHUNG, *Administrative Patent Judge.*

JUDGMENT
Termination of Proceeding
37C.F.R. § 42.73

On April 17, 2015, Patent Owner Selene Communication Technologies, LLC (“Selene”) and Petitioner EMC Corporation (“EMC”) filed a corrected joint motion to terminate the trial proceeding under 35 U.S.C. § 317(a) (Paper 10), a true copy of the written settlement agreement (Ex. 1066), and a corrected joint request to maintain confidentiality and to keep separate pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74 (Paper 11).¹

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.”

Generally, the Board expects that a proceeding will terminate as to settling parties 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). EMC filed a Petition for an *inter partes* review of U.S. Patent No. 6,363,377 on March 6, 2015, but Selene has not filed a Preliminary Response. The Board also has not determined, under 35 U.S.C. § 314, whether or not to institute a review in the instant proceeding. As no trial has been instituted based on EMC’s Petition, the proceeding is in the preliminary stage.

The Board is persuaded that, under these circumstances, it is appropriate to terminate this proceeding. 37 C.F.R. § 42.73.

Accordingly, it is:

ORDERED that the joint motion to terminate this proceeding with respect to both parties is GRANTED, and this proceeding is hereby terminated; and

¹ The first joint motion and request (Papers 7–8) refer to the expunged exhibit (Ex. 1065). *See* Paper 9.

FURTHER ORDERED that the parties' joint request that the written settlement agreement (Ex. 1066) be: (i) treated as business confidential information; (ii) kept separate from the file of the '377 patent; (iii) kept confidential from any third party; and (iv) made available only to Federal Government agencies on written request, or to any person on a showing of good cause, under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), is GRANTED.

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