

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

NONEND INVENTIONS, N.V.,
Patent Owner.

Case IPR2016-00302
Patent 8,090,862 B2

Before MICHAEL W. KIM, JENNIFER S. BISK, and
DANIEL N. FISHMAN, *Administrative Patent Judges*.

BISK, *Administrative Patent Judge*.

DECISION
Dismissing Petition Pursuant To Settlement
37 C.F.R. §§ 42.5(a), 42.71(a)

On February 25, 2016, the parties filed a “Joint Motion to Terminate” “in light of the parties’ resolution of their dispute relating to [the patent at issue] and the executed written agreement regarding the parties’ resolution.” Paper 6, 1.¹ The parties concurrently filed a copy of that executed written agreement (Ex. 2001) along with a “Joint Request to Treat the Settlement Agreement as Business Confidential Information.” Paper 7; *see also* 37 C.F.R. § 42.74(c) (“A party to a settlement may request that the settlement be treated as business confidential information and be kept separate from the files of an involved patent or application.”).

Patent Owner has not filed a preliminary response in this proceeding, and we have not considered the merits of the Petition. Under these circumstances, we determine that it is appropriate to dismiss the Petition. *See* 37 C.F.R. §§ 42.5(a), 42.71(a). This paper does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

Accordingly, it is:

ORDERED that the Petition in this proceeding is *dismissed*; and

FURTHER ORDERED that the settlement agreement, Exhibit 2001, be treated as business confidential information and be kept separate from the files of the involved U.S. Patent No. 8,090,862 B2.

¹ The parties style this a “Motion to Terminate” pursuant to 35 U.S.C. § 317. The parties do not, however, explain how § 317, which refers to “[a]n inter partes review instituted under this chapter,” applies explicitly to this situation, in which an institution decision has not yet been rendered.

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