

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner,

v.

FO2GO LLC,
Patent Owner.

Case IPR2016-00454
Patent No. 7,173,651 B1

Before SALLY C. MEDLEY, ROBERT J. WEINSCHENK, and
CHRISTA P. ZADO, *Administrative Patent Judges*.

ZADO, Administrative Patent Judge.

ORDER
Termination of the Proceeding
37 C.F.R. § 42.74

I. INTRODUCTION

On March 18, 2016, the parties filed a Joint Motion to Terminate the instant proceeding. Paper 7 (“Joint Mot.”). In addition, pursuant to 37 C.F.R. § 42.74(b), the parties filed a copy of their settlement agreement (“Agreement”), covering, *inter alia*, the patent involved in this proceeding, U.S. Patent No. 7,173,651 B1 (“the ’651 patent”). Ex. 1009. The parties filed a joint motion to have the Agreement be treated as business confidential information and kept separate from the files of the patent involved in this proceeding under 37 C.F.R. § 42.74(c). Paper 8. We authorized the filing of these papers.

II. ANALYSIS

The parties contend that termination is proper because the parties involved in the proceeding jointly request it and the merits are undecided. Joint Mot. 1. The parties have filed a copy of the Agreement pursuant to 37 C.F.R. § 42.74(b), and contend that the Agreement contemplates termination of this case prior to a decision on the merits. Joint. Mot. 1. This case is in the preliminary proceeding¹ stage; no decision whether to institute a trial has been made. Upon review of the procedural posture of this proceeding and the facts before us, we are persuaded that good cause exists to terminate the instant proceeding.

All parties filed, along with their Joint Motion to Terminate, a joint motion requesting that the Agreement be kept separate and treated as business confidential under 37 C.F.R. § 42.74(c). Paper 8. The parties’

¹ A preliminary proceeding begins with the filing of a petition for instituting a trial and ends with a written decision as to whether trial will be instituted. 37 C.F.R. § 42.2.

request under 37 C.F.R. § 42.74(c) is granted. Pursuant to 37 C.F.R. § 42.74(c), the 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.”

III. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Joint Motion to Terminate is *granted*;

FURTHER ORDERED that the instant proceeding is hereby *terminated* as to all parties; and

FURTHER ORDERED that the Joint Motion to treat the Agreement as business confidential and keep it separate from the patent file pursuant to 37 C.F.R. § 42.74(c) is *granted*.

IPR2016-00454
Patent 7,173,651 B1

PETITIONER:

Jeff Toler
TOLER LAW GROUP, PC
jtoler@tlgiplaw.com

Jonathan Stroud
UNIFIED PATENTS, INC.
jonathan@unifiedpatents.com

PATENT OWNER:

Gary Sorden
Kirby B. Drake
KLEMCHUK LLP
gary.sorden@klemchuk.com
kirby.drake@klemchuk.com