

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NATIONAL ASSOCIATION OF REALTORS,
Petitioner,

v.

DATA DISTRIBUTION TECHNOLOGIES LLC,
Patent Owner.

Case IPR2016-01075
Patent 6,529,908 B1

Before THOMAS L. GIANNETTI, PATRICK M. BOUCHER, and
MELISSA A. HAAPALA, *Administrative Patent Judges*.

HAAPALA, *Administrative Patent Judge*.

DECISION
Joint Motion to Terminate
37 C.F.R. § 42.74

On September 20, 2016, Petitioner National Association of Realtors (“NAR”) and Patent Owner Data Distribution Technologies LLC (“DDT”) filed a revised joint motion to terminate this proceeding pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74. Paper 14. Along with the motion, the

parties filed a copy of a document they describe as a true and correct copy of their settlement agreement (Ex. 1056) and its referenced exhibits (Exs. 1057–1062).¹ Paper 14; *see also* Paper 15, 9 (describing Exs. 1057–1062 as exhibits to the settlement agreement). The parties also concurrently filed a request to keep confidential only a portion of the settlement agreement (Appendix A2 (Ex. 1058)) pursuant to 37 C.F.R. § 42.74(c). Paper 13; *see also* Paper 14, 3–4.

The parties may agree to settle any issue in a proceeding pursuant to a written agreement, a copy of which shall be filed with the Board before termination of the trial. 37 C.F.R. § 42.74(a)–(b). Any agreement or understanding between the patent owner and a petitioner, including any collateral agreements referred to in such agreement or understanding made in connection with, or in contemplation of, the termination of an *inter partes* review shall be in writing and a true copy of such agreement or understanding shall be filed in the Office before the termination of such review as between the parties. 35 U.S.C. § 317(b).

As required by 37 C.F.R. 42.20(b), NAR and DDT received prior authorization to file the revised motion to terminate. Paper 12. The parties represent that termination is appropriate because the *inter partes* review has not been instituted, the parties have settled their dispute and agreed to terminate this proceeding, and the parties have also agreed to settle and dismiss their related district court litigation. Paper 14, 2. NAR and DDT

¹ The motion, request to keep confidential, and Petitioner’s Updated Exhibit List (Paper 15) incorrectly use exhibit numbers 1049–1055 to refer respectively to Exs. 1056–1062. *See* Papers 13–15. Exhibit numbers 1049–1055 were previously used for exhibits that have been expunged (*see* Dec. Joint Motion to Term. (Paper 12)) and may not be reused. Throughout the present decision, we refer to the exhibits by their correct number.

further represent that the “entire settlement agreement is in writing and a true and correct copy of the settlement agreement is being filed concurrently with the present motion as Exhibit [1056].” *Id.* The parties also certify that the settlement agreement (Ex. 1056) and its referenced exhibits (Exs. 1057–1062) represents the complete agreement, including all terms and conditions by which the parties settled their dispute, and represent that there are no other collateral agreements or understandings made in connection with, or in contemplation of, the termination of this *inter partes* review. Paper 14, 2–3.

This proceeding is in an early stage and no decision whether to institute *inter partes* review has been made. Additionally, the parties have complied with 35 U.S.C. § 317(b). Under these circumstances, we determine that it is appropriate to terminate this proceeding. We further determine the request to keep separate Appendix A2 of the settlement agreement (Ex. 1058) was timely filed, and, therefore, grant the request. *See* 35 U.S.C. § 317(b); 37 C.F.R. § 42.74(c)

In addition to Appendix A2 of the settlement agreement (Ex. 1058), the parties filed the main document of the settlement agreement (Ex. 1056) under seal. However, neither the motion to terminate nor the request to keep separate included a request that the main document of the settlement agreement be kept confidential or represent that this document is business confidential information. *See* Papers 13–14. Accordingly, unless the parties submit a request to keep separate the main document of the settlement agreement (Ex. 1056) within 5 business days of this order, this exhibit shall be unsealed and made publicly available the next business day after the expiration of the deadline.

It is

ORDERED that the joint Motion to Terminate the captioned proceeding is *granted*;

FURTHER ORDERED that the joint request that Appendix A2 of the settlement agreement (Ex. 1058) be treated as business confidential information, be kept separate from the file of the involved patent, and 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*; and

FURTHER ORDERED that unless a request to keep confidential is filed within 5 business days of this order, the settlement agreement (Ex. 1056) filed under seal shall be unsealed and made publicly available the next business day after the expiration of the deadline.

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