

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RPX Corporation
Petitioner,

v.

Pico Byte Systems, LLC,
Patent Owner.

Case IPR2016-01852
Patent 7,719,981 B2

Before BRYAN F. MOORE, CARL M. DeFRANCO, and
KAMRAN JIVANI, *Administrative Patent Judges*.

JIVANI, *Administrative Patent Judge*.

ORDER
Dismissing the Petition
37 C.F.R. §§ 42.71(a), 42.74

On November 30, 2016, with Board authorization, the parties filed a joint motion to terminate the proceeding, notice of settlement, and request to treat the settlement agreement as business confidential (Papers 6 and 7), along with what they indicate is their written settlement agreement (Ex. 1008). The parties state that they “have settled their dispute and have agreed, in the confidential Settlement Agreement, to terminate this proceeding.” Paper 6, 1. The joint request to treat the settlement agreement as business confidential information includes a request that the settlement agreement be kept separate from the patent file. Paper 7, 1; *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.”).

This proceeding is at an early stage. Patent Owner has not filed a preliminary response, and a decision on whether to institute trial has not been made. The parties represent that, other than the settlement agreement (Ex. 1008), “there are no other written or oral agreements or understandings, including any collateral agreements, between the Parties, including but not limited to other licenses, covenants not to sue, confidentiality agreements, or other agreements of any kind, that are made in connection with or in contemplation of the termination of the IPR proceeding.” Paper 6, 1–2.

Based on the facts of this case, it is appropriate to dismiss the Petition for *Inter Partes* Review. Therefore, the joint motion to terminate the proceeding is granted. This paper does not constitute a final written decision pursuant to 35 U.S.C. § 318(a). As requested by the parties, the settlement agreement will be treated as business confidential information and kept separate from the patent file. 37 C.F.R. § 42.74(c).

Accordingly, it is:

ORDERED that the joint motion to terminate the proceeding is
GRANTED;

ORDERED that the Petition for *Inter Partes* Review is DISMISSED;
and

FURTHER ORDERED that the parties' joint settlement agreement
(Ex. 1008) shall be treated as business confidential information under 35
U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) and be kept separate from the file
of the patent.

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FOR PETITIONER:

Amy E. Simpson
Jared Crop
PERKINS COIE LLP
asimpson@perkinscoie.com
jcrop@perkinscoie.com

FOR PATENT OWNER:

Todd Y. Brandt
BRANDT LAW FIRM
tbrandt@thebrandtlawfirm.com