

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIAVI SOLUTIONS INC.,
Petitioner,

v.

EXFO INC.,
Patent Owner.

Case IPR2017-00138
Patent 8,576,389 B2

Before BARBARA A. PARVIS, GREGG I. ANDERSON, and
ROBERT J. WEINSCHENK, *Administrative Patent Judges*.

WEINSCHENK, *Administrative Patent Judge*.

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

I. INTRODUCTION

The parties filed a Joint Motion to Terminate Proceeding. Paper 8 (“Motion” or “Mot.”). The parties also filed a true copy of a Settlement and License Agreement (“Agreement”). Ex. 1009. In a Joint Request, the parties identified the Agreement as business confidential information and requested that the Agreement be kept separate from the patent file. Paper 9, 2. For the reasons discussed below, the Motion and Joint Request are *granted*.

II. ANALYSIS

This proceeding is in the preliminary stage, and no decision whether to institute a trial has been made. The parties indicate that they have settled their dispute regarding U.S. Patent No. 8,576,389 B2. Mot. 2. Under these circumstances, we determine that it is appropriate to terminate this proceeding. *See* 37 C.F.R. § 42.74(a). We also determine that it is appropriate to treat the Agreement as business confidential information to be kept separate from the patent file. *See* 37 C.F.R. § 42.74(c).

III. ORDER

In consideration of the foregoing, it is hereby:

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

FURTHER ORDERED that this proceeding is terminated as to all parties; and

FURTHER ORDERED that the Joint Request to treat the Settlement and License Agreement (Ex. 1009) as business confidential information to be kept separate from the patent file is *granted*.

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