

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CWGC LA, INC.,
Petitioner,

v.

DEB IP LIMITED,
Patent Owner.

Case IPR2017-00776
Patent 6,082,586

Before JOSIAH C. COCKS and TIMOTHY J. GOODSON,
Administrative Patent Judges.

GOODSON, *Administrative Patent Judge.*

ORDER
Dismissing Petition Before Institution Due to Settlement
37 C.F.R. § 42.71(a)

On June 6, 2017, the parties filed a Joint Motion to Terminate Proceeding Pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72. *See* Paper 12. In support of that motion, the parties state that they “have reached a settlement as to all the disputes in this proceeding and as to the ’586 patent. A true copy of the settlement agreement is filed concurrently herewith. *See* Ex. 1010.” *Id.* at 4.

This proceeding is still in its preliminary stage, as no decision on institution has been rendered. *See* 37 C.F.R. § 42.2 (“Preliminary Proceeding begins with the filing of a petition for instituting a trial and ends with a written decision as to whether a trial will be instituted.”). The language of the statute and rule cited by the Joint Motion to Terminate applies to proceedings that have already been instituted. *See* 35 U.S.C. § 317(a) (“An inter partes review instituted under this chapter”); 37 C.F.R. § 42.72 (“The Board may terminate a trial”); *see also* 37 C.F.R. § 42.2 (“Trial means a contested case instituted by the Board based upon a petition. A trial begins with a written decision notifying the petitioner and patent owner of the institution of the trial.”). However, under 37 C.F.R. § 42.71(a), the Board “may grant, deny or dismiss any petition or motion.” We construe the parties’ Joint Motion to Terminate as a request that we dismiss the petition, and we grant that request.

The parties also filed a joint request that the settlement agreement in Exhibit 1010 be treated as business confidential information and kept separate pursuant to 37 C.F.R. § 42.74(c). *See* Paper 13. We grant that request as well.

Accordingly, it is hereby:

ORDERED that the Petition (Paper 1) is dismissed; and

FURTHER ORDERED that the parties’ joint request that the settlement agreement (Exhibit 1010) be treated as business confidential information, kept separate from the file of the involved patent, and made available only to Federal

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Government agencies on written request, or to any person on a showing of good cause, under the provisions of 37 C.F.R. § 42.74(c), is granted.

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