

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner,

v.

SMART WEARABLE TECHNOLOGIES INC.,
Patent Owner.

Case IPR2017-01325
Patent 6,997,882 B1

Before PATRICK R. SCANLON, ZHENYU YANG, and
TIMOTHY J. GOODSON, *Administrative Patent Judges*.

YANG, *Administrative Patent Judge*.

DECISION

Termination of the Proceeding Due to Settlement before Institution
37 C.F.R. §§ 42.72, 42.74

Pursuant to 35 U.S.C. § 317(a), and with the Board’s authorization, the parties filed a Joint Motion to Terminate. Paper 8. In addition, the parties filed a true and correct copy of a Settlement Agreement. Ex. 1011.

Under 35 U.S.C. § 317(a), “[a]n inter partes review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” Under 37 C.F.R. § 42.72, “[t]he Board may terminate a trial without rendering a final written decision, where appropriate, including . . . pursuant to a joint request under 35 U.S.C. 317(a).”

This case is in its preliminary stage. No decision on whether to institute a trial has been made. The parties assert that the present circumstances support “the propriety of terminating this proceeding even though the settlement and termination provisions of 35 U.S.C. § 317, on their face, apply only to ‘instituted’ proceedings.” Paper 8, 2 (citing 77 Fed. Reg. 48680, 48686 (Aug. 14, 2012)). After reviewing the Joint Motion to Terminate and the Settlement Agreement, we determine that it is appropriate to terminate the proceeding without rendering a final written decision. Therefore, the Joint Motion to Terminate is GRANTED.

Accordingly, it is

ORDERED that the Joint Motion to Terminate is GRANTED and the proceeding is hereby TERMINATED.

IPR2017-01325
Patent 6,997,882 B1

PETITIONER:

Joseph Micallef
SIDLEY AUSTIN LLP
iprnotices@sidley.com

PATENT OWNER:

Richard Wojcio
FRIEDMAN, SUDER & COOKE
wojcio@fsclaw.com