

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RIVERBED TECHNOLOGY, INC.,
Petitioners,

v.

REALTIME DATA LLC,
Patent Owner.

Case IPR2017-01710¹
Patent 8,717,204 B2

Before JAMESON LEE, THOMAS L. GIANNETTI, and GARTH D. BAER,
Administrative Patent Judges.

BAER, *Administrative Patent Judge.*

ORDER
Terminating Proceeding
35 U.S.C. § 317

¹ IPR2018-00656 has been joined to this proceeding.

On November 7, 2018, the parties filed a Joint Motion to Terminate *Inter Partes* Review with Respect to Petitioner Riverbed Technology, Inc. (Paper 47) and Joint Request to File Exhibit 2030 as Business Confidential Information (Paper 48). The motion requests termination because the parties have agreed that the dispute between them has been resolved. Paper 47, 1. The parties concurrently filed a true copy of their Settlement and License Agreement. *Id.* at 2; *see* Ex. 2030.

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.” Generally, the Board expects that a proceeding will terminate as to settling parties after the filing of a settlement agreement. *See, e.g.*, Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). We are persuaded that it is appropriate to terminate this proceeding as to Petitioner Riverbed Technology, Inc. We also determine it is appropriate to treat the movants’ settlement agreement (Ex. 2030) as business confidential information, and to keep that document separate from the files of U.S. Patent No. 8,717,204 B2, under 37 C.F.R. § 42.74(c).

Although Patent Owner Realtime Data LLC (Realtime) joins Petitioner Riverbed Technology, Inc. (Riverbed) in the motion to dismiss Riverbed, Realtime states that it “does not request that the Board terminate this proceeding as a whole,” but instead asks that we “maintain the oral hearing and render decisions on the petition and motion to amend in this proceeding” without any further participation from Riverbed. Paper 47, 3. We decline Realtime’s request to continue with this proceeding and oral hearing without Riverbed.

Under 35 U.S.C. § 317(a), “[i]f no petitioner remains in the inter partes review, the Office may terminate the review.” Here, we conclude terminating is in the interests of justice because the challenged patent in this case, U.S. Patent No. 8,717,204, is the subject of several other petitions for *inter partes* review involving other parties. Thus, rendering decisions on the petition and motion to amend in this proceeding could impact those other parties, without their participation. If Realtime still seeks to amend its claims going forward, it may file its motion to amend in one the other pending IPRs.

Accordingly, it is hereby:

ORDERED that IPR2017-01710 is terminated; and

FURTHER ORDERED that Exhibit 2030 be maintained as confidential business information and kept separate from the files of U.S. Patent No. 8,717,204 B2.

IPR2017-01710
Patent 8,717,204 B2

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