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Paper 8
Entered: February 26, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ADVANCED MICRO-FABRICATION EQUIPMENT, INC.,
Petitioner,

v.

VEECO INSTRUMENTS, INC.,
Patent Owner.

Case IPR2018-00288
Patent 6,726,769 B2

Before KRISTINA M. KALAN, CHRISTOPHER M. KAISER, and JEFFREY W. ABRAHAM, *Administrative Patent Judges*.

KALAN, *Administrative Patent Judge*.

DECISION
Dismissing the Proceeding
37 C.F.R. § 42.5(a), 37 C.F.R. § 42.71(a)

The parties have requested that the above-captioned proceeding be terminated pursuant to a settlement. The Board authorized the parties to file a joint motion to terminate or dismiss the above-captioned proceeding on February 15, 2018.

On February 16, 2018, and pursuant to 35 U.S.C. § 317, the parties filed a joint motion to terminate the above-captioned proceeding (Paper 6, "Joint Motion") and a joint request to treat the settlement agreement as business confidential information, to be kept separate from the patent file pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (Paper 7), along with a copy of the settlement agreement (Ex. 1019).

Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement. *See, e.g.*, Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48768 (Aug. 14, 2012). This case is in the preliminary proceeding stage. A preliminary proceeding begins with the filing of a petition for instituting a trial and ends with a written decision as to whether trial will be instituted. *See* 37 C.F.R. § 42.2. In this case, Petitioner filed a Petition, but Patent Owner has not yet filed a Preliminary Response, and no decision whether to institute a trial has been made.

The parties jointly request that IPR2018-00288 be terminated. Paper 6. The parties certify that the settlement agreement "sets forth the Parties' complete agreement to terminate this proceeding, and agreements to settle other claims" and that "there are no other collateral agreements or understandings made in connection with, or in contemplation of, terminating this *inter partes* review." *Id.* at 2.

Based on the facts of this case, and in view of the parties' Joint Motion in this proceeding, we determine that it is appropriate to dismiss the

Petition in the above-captioned case as to both Petitioner and Patent Owner without rendering either a decision to institute or a final written decision. *See* 37 C.F.R. §§ 42.5(a); 42.71(a). Therefore, the Joint Motion and the joint request to treat the settlement agreement as business confidential information are *granted*. This paper does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

Accordingly, it is

ORDERED that the joint request to treat the settlement agreement as business confidential information, to be kept separate from the patent file, is *granted*;

FURTHER ORDERED that the Joint Motion is *granted*; and

FURTHER ORDERED that the Petition for *Inter Partes* Review of the above-referenced patent is *dismissed*.

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