

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

I.S.E.L., LLC,
Petitioner,

v.

POLYGUARD PRODUCTS, INC.,
Patent Owner.

IPR2018-00428
Patent 6,331,509 B1

Before JEFFREY B. ROBERTSON, KRISTINA M. KALAN, and
WESLEY B. DERRICK, *Administrative Patent Judges*.

DERRICK, *Administrative Patent Judge*.

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

On April 30, 2018, the Parties filed a joint motion to terminate this proceeding involving U.S. Patent 6,331,509 B1 (“the ’509 patent”). Paper 5 (“Joint Motion”). The Board had authorized the filing on April 30, 2018.

In jointly requesting termination, the Parties state that they “have settled their dispute, and have reached agreement to terminate this *inter partes* review.” Paper 5, 1. With the Joint Motion, the Parties filed a Settlement Agreement (Exhibit 1012) stating that the “patent claims of . . . litigation proceedings [in which the ’509 patent had been asserted] have been dismissed” and that “[t]here are no other current litigation proceedings involving the subject patent” (Paper 5, 2–3). The Parties also “jointly certify that there is no other agreement or understanding between them, including any other collateral agreements, made in connection with, or in contemplation of, the termination of the instant proceeding as set forth in 35 U.S.C. § 317(b).” Paper 5, 1.

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, which begins with the filing of a petition for instituting a trial—which has occurred in this case—and ends with a written decision as to whether a trial will be instituted—which has not yet occurred in this case. *See* 37 C.F.R. § 42.2.

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 is *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 Motion is *granted*; and

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

IPR2018-00428
Patent 6,331,509 B1

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