

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DYNAENERGETICS US, INC. and
DYNAENERGETICS GMBH & CO. KG,
Petitioner,

v.

GEODYNAMICS, INC.,
Patent Owner.

IPR2018-00502
Patent 9,644,460 B2

Before BEVERLY M. BUNTING, TIMOTHY J. GOODSON, and
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

FINAMORE, *Administrative Patent Judge*.

ORDER

*Granting Joint Motion to Terminate Proceeding Due to
Settlement after Institution Decision and
Granting Joint Request to Treat Settlement Agreement as
Confidential Business Information
35 U.S.C. § 317; 37 C.F.R. §§ 42.72, 42.74*

I. INTRODUCTION

Petitioner and Patent Owner jointly request that the above-referenced *inter partes* review proceeding be terminated pursuant to a settlement. On November 16, 2018, with our authorization, the parties filed a Joint Motion to Terminate Proceeding (Paper 20, “Joint Motion”), a copy of a Settlement Agreement (Ex. 1019, “Settlement Agreement”), and a Joint Request to Treat Settlement Agreement as Confidential Business Information (Paper 21, “Joint Request”).¹

II. DISCUSSION

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 the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” Section 317(b) requires that any agreement between the parties, including collateral agreements, made in connection with the termination of an *inter partes* review “shall be in writing and a true copy of such agreement or understanding shall be filed in the Office before the termination of the *inter partes* review as between the parties.”

In the Joint Motion, the parties represent that they have settled their dispute regarding U.S. Patent No. 9,644,460 B2 (“the ’460 patent”) and have reached an agreement to jointly request termination of this *inter partes* review proceeding. Joint Mot. 1. The parties further represent that the

¹ We authorized the Joint Motion and the Joint Request in an e-mail sent to the parties on November 14, 2018.

'460 patent is not the subject of any pending litigation between the parties.

Id. The Parties also represent that the filed copy of the Settlement Agreement is a true and correct copy and sets forth the parties' complete agreement. *Id.*

We instituted an *inter partes* review for this proceeding on July 31, 2018. Paper 11. We have not yet decided the merits of the proceeding, and a final written decision has not been entered. Given the present stage of the proceeding, the parties have shown adequately that termination is appropriate. Under these circumstances, we determine that good cause exists to terminate the proceeding. We further determine that the Settlement Agreement complies with the requirements for written agreements regarding termination set forth in 35 U.S.C. § 317(b).

With respect to the parties' Joint Request, we have reviewed the Settlement Agreement, and find that the Settlement Agreement contains confidential business information regarding the terms of settlement. We determine that good cause exists to treat the Settlement Agreement as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

III. CONCLUSION

For the foregoing reasons, we grant the parties' Joint Motion and Joint Request. This determination does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

IV. ORDER

Accordingly, it is:

ORDERED that the Joint Motion to Terminate is *granted*, and IPR2018-00502 is *terminated* due to settlement after institution decision with respect to Petitioner and Patent Owner pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72; and

FURTHER ORDERED that the Joint Request to Treat Settlement Agreement as Confidential Business Information is *granted*, and the Settlement Agreement shall be kept separate from the file of the '460 patent, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 37 C.F.R. § 42.74(c).

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