

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PURE STORAGE, INC.,
Petitioner,

v.

REALTIME DATA LLC,
Patent Owner.

Case IPR2018-00549
Patent 9,667,751 B2

Before CHRISTOPER L. CRUMBLEY, GREGG I. ANDERSON, and
MINN CHUNG, *Administrative Patent Judges*.

ANDERSON, *Administrative Patent Judge*.

DECISION
Joint Motion to Terminate Proceeding
37 C.F.R. § 42.72

INTRODUCTION

In an email dated October 5, 2018, Pure Storage, Inc. (“Petitioner”) and Realtime Data, LLC (“Patent Owner”) requested authorization to file a Joint Motion to Terminate this proceeding (“Motion”) and a Joint Request to Keep Separate (“Joint Request”) a confidential settlement agreement to be filed concurrently. Ex. 3002. On October 9, 2018, we authorized the requested filings. *Id.*

On October 10, 2018, the parties filed the Motion (Paper 12) and Joint Request (Paper 13). On October 9, 2018, a separate true copy of a RELEASE TERMS agreement was filed under the “Parties and Board Only” designation. Ex. 2001.

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.” The grant of the Motion will result in the termination of this proceeding. The parties are reminded that the Board is not a party to the settlements, and may identify independently any question of patentability. 37 C.F.R § 42.74(a).

Generally, however, 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 instituted trial on July 23, 2018. Paper 7. This proceeding is at an early stage. A Response to the Petition was not due until October 26, 2018, after the parties reached settlement and filed the Motion and Joint Request. Paper 9, 7; Paper 11, 2. The Board is persuaded that,

under these circumstances, it is appropriate to terminate this proceeding. *See* 37 C.F.R. § 42.72.

ORDER

Accordingly, it is:

ORDERED that the joint motion to terminate the proceeding is GRANTED, and the proceeding is hereby terminated; and

FURTHER ORDERED that the parties' joint request to keep separate Exhibit 2001 is GRANTED, and the specified exhibit shall be: (i) treated as business confidential information; (ii) kept separate from the files of U.S. Patent No. 9,667,751; (iii) kept confidential from any third party; (iv) filed as "BOARD AND PARTIES ONLY," and (v) made available only to Federal Government agencies on written request, or to any person on a showing of good cause, under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

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