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Paper No. 14
Filed: November 14, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AUTOMATED PACKAGING SYSTEMS, INC.,
Petitioner,

v.

FREE-FLOW PACKAGING INTERNATIONAL, INC.,
Patent Owner.

IPR2018-00850
Patent 8,323,774 B2

Before JEFFREY W. ABRAHAM, MICHAEL L. WOODS, and TIMOTHY G. MAJORS, *Administrative Patent Judges.*

MAJORS, *Administrative Patent Judge.*

DECISION
Termination of the Proceeding
35 U.S.C. § 317(a) and 37 C.F.R. § 42.72

On November 9, 2018, with Board authorization, the parties filed a joint motion to terminate this proceeding (Paper 10), and concurrently filed what they indicate is a true and correct copy of their written settlement agreement (Paper 11). In their joint motion, the parties indicate that they "have settled their dispute" and "executed a Confidential Settlement Agreement to terminate this proceeding." Paper 10, 1–2. The parties also contend that several factors (e.g., the preliminary stage of the proceeding, that a Patent Owner Response has not yet been filed, the dismissal of co-pending district court litigation, and minimizing costs) favor termination of this proceeding. *Id.*

On November 9, 2018, the parties also filed a joint request that the settlement agreement be filed and treated as business confidential information and kept separate from the file of U.S. Patent No. 8,323,774 B2. Paper 12, 1.

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." We instituted a trial in this proceeding on October 16, 2018 (Paper 7). The proceeding is still at a relatively early stage and the Board has yet to decide the merits of Petitioner's challenge.

Further, under 37 C.F.R. § 42.74(b), "[a]ny agreement or understanding between the parties made in connection with, or in contemplation of, the termination of a proceeding shall be in writing and a true copy shall be filed with the Board before the termination of the trial."

The parties have filed what they indicate is a true copy of their written settlement agreement (Paper 11), and state that there are no other agreements, oral or written, between the parties related to termination of this proceeding. Paper 10, 2. In view of the foregoing, we determine that it is appropriate to terminate this proceeding without rendering a final written decision. *See* 37 C.F.R. §§ 42.72, 42.74.

As requested by the parties, the settlement agreement will be treated as business confidential information and kept separate from the patent file. 37 C.F.R. § 42.74(c).

Accordingly, it is

ORDERED that the parties' joint motion to terminate the proceeding (Paper 10) is *granted*;

FURTHER ORDERED that the parties' joint request (Paper 12) that the settlement agreement (Paper 11) be treated as business confidential information is *granted*; and

FURTHER ORDERED that this proceeding is hereby *terminated*.

PETITIONER:

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