

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RPX CORPORATION

Petitioner,

v.

CODING TECHNOLOGIES, LLC,

Patent Owner.

Case IPR2018-00858
Patent 8,540,159 B2

Before AMANDA F. WIEKER, AMBER L. HAGY, and
JOHN R. KENNY, *Administrative Patent Judges*.

KENNY, *Administrative Patent Judge*.

DECISION

Granting Joint Motion to Terminate and
Granting Joint Request to File Settlement Agreement
as Business Confidential Information
37 C.F.R. §§ 42.71(a), 42.74

DISCUSSION

On September 14, 2018, with Board authorization, the parties filed a Joint Motion to Terminate (Paper 6), a Joint Request to File Agreement as Business Confidential Information (Paper 7), and copies of their settlement agreement (Exs. 1009, 1010). The parties represent that their settlement agreement settles their disputes regarding the patent at issue in this proceeding and that “[t]here are no collateral agreements or understandings made in connection with, or in contemplation of, the termination of the proceeding.” Paper 6, 1–2. Further, the parties request that their settlement agreement be treated as business confidential information and be kept separate from the file of the patent pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 7, 1.

Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement. *See* 35 U.S.C. § 317(a) (“An 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.”); 37 C.F.R. § 42.72 (“The Board may terminate a trial without rendering a final written decision, where appropriate, including . . . pursuant to a joint request under 35 U.S.C. 317(a)”); *see also* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012) (“The Board expects that a proceeding will terminate after the filing of a settlement agreement, unless the Board has already decided the merits of the proceeding.”).

This proceeding is at an early stage. Patent Owner has not filed a preliminary response, and we have not issued a decision on whether to

institute an *inter partes* review. Under these circumstances, we grant the Joint Motion to Terminate (Paper 6).

We also grant the Joint Request to File Agreement as Business Confidential Information (Paper 7). See 35 U.S.C. § 317(b) (“At the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents, and shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause.”); see also 37 C.F.R. § 42.74(c).

ORDER

It is:

ORDERED that the Joint Motion to Terminate (Paper 6) is *granted*;

FURTHER ORDERED that the Joint Request to File Agreement as Business Confidential Information (Paper 7) is *granted*;

FURTHER ORDERED that the settlement agreement (Exs. 1009, 1010) be treated as business confidential information, kept separate from the file of the above-referenced patent, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c); and

FURTHER ORDERED that this proceeding is *terminated*.

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