

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CHERWELL SOFTWARE, LLC,
Petitioner,

v.

BMC SOFTWARE, INC.,
Patent Owner.

Case IPR2018-00979
Patent 9,363,252 B2

Before JEAN R. HOMERE, JUSTIN T. ARBES,
and JOHN A. HUDALLA, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION
Termination of the Proceeding
37 C.F.R. § 42.72

On March 14, 2019, the parties filed a joint motion to terminate the instant proceeding on the basis of a settlement reached by the parties. *See* Paper 17 (“Mot.”); 35 U.S.C. § 317(a); 37 C.F.R. § 42.72. The parties also filed a copy of their written settlement agreement (Exhibit 1008), along with a joint request (Paper 18) to treat the agreement as business confidential information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

A trial was instituted in this proceeding on October 19, 2018. Paper 9. The parties requested authorization to file a joint motion to terminate on March 11, 2019, and we provided authorization by email on March 12, 2019. The parties previously stipulated to change DUE DATE 1 in this proceeding to March 12, 2019. Paper 16. Accordingly, this trial is still in its early stages. In the joint motion to terminate, the parties represent that they “have settled all disputes regarding” the challenged patent in this proceeding, including the related district court case, and filed a “true and correct copy” of their settlement agreement. Mot. 1. Under these circumstances, we determine that it is appropriate to terminate the instant proceeding without rendering any further decisions. *See* 37 C.F.R. § 42.72.

In consideration of the foregoing, it is hereby:

ORDERED that the parties’ request that the settlement agreement (Exhibit 1008) be treated as business confidential information, kept separate from the file of U.S. Patent No. 9,363,252 B2, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), is *granted*; and

FURTHER ORDERED that the joint motion to terminate the instant proceeding is *granted* and the proceeding is hereby *terminated*.

IPR2018-00979
Patent 9,363,252 B2

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