

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZIP TOP, LLC,
Petitioner,

v.

STASHER, INC.,
Patent Owner.

Case IPR2018-01216
Patent 9,371,153 B1

Before MITCHELL A. WEATHERLY, JAMES A. TARTAL, and
AVELYN M. ROSS, *Administrative Patent Judges*.

ROSS, *Administrative Patent Judge*.

JUDGMENT

Terminating the Proceeding
Granting Request to Treat Settlement Agreement as
Business Confidential Information
35 U.S.C. § 317(a); 37 C.F.R. §§ 42.72, 42.74(c)

On July 1, 2019, with our prior authorization, ZipTop, LLC (“Petitioner”) and Stasher, Inc. (“Patent Owner”) (collectively, “the parties”) filed a Joint Motion to Terminate the *Inter Partes* Review. Paper 37 (“Motion”). Together with the Motion, the parties filed a copy of their written Agreement and Covenant Not To Sue (Ex. 1013, “Agreement”) and a Joint Request to File the Settlement Agreement as Business Confidential Information Pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 38 (“Joint Request”).

The Board generally expects that a case “will terminate after the filing of a settlement agreement, unless the Board has already decided the merits.” *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012); see 35 U.S.C. §317(a) and 37 C.F.R. § 42.72. We instituted an *inter partes* review in this case on January 17, 2019. Paper 14. Patent Owner filed a Patent Owner Response but “Petitioner has not yet filed a reply, and there has not been an oral hearing before the Board nor has the Board issued a final written decision.” Motion 1. The parties indicate that the Agreement resolves the dispute regarding US Patent No. 9,371,153 and related patents. *Id.* at 1. The parties state that they “have also amicably resolved the District Court Action pursuant to the confidential Settlement Agreement” and “[h]ere are no related board proceedings regarding the patent-at-issue, and no future litigation involving the patent-at-issue is presently contemplated.” *Id.* at 5.

Under these circumstances, we determine that it is appropriate to enter judgment and terminate this proceeding without rendering a final written decision. See 35 U.S.C. § 317(a); 37 C.F.R. §§ 42.5(a), 42.72. After reviewing the Agreement, we find that it contains confidential business

information regarding the terms of the settlement and that good cause exists to treat the Agreement as business confidential information to be kept separate from the patent file. *See* 35 U.S.C. § 317(b); 37 C.F.R. § 42.74(c). This Paper does not constitute a Final Written Decision under 35 U.S.C. § 318(a).

ORDER

In view of the foregoing, it is

ORDERED that the Joint Request to File the Settlement Agreement as Business Confidential Information (Paper 38) is *granted*;

FURTHER ORDERED that the Settlement Agreement (Ex. 1013) shall be treated as business confidential information and shall be kept separate from the patent file; and

FURTHER ORDERED that the Parties Joint Motion to Terminate the *Inter Partes* Review (Paper 37) is *granted* and this proceeding is hereby terminated.

IPR2018-01216
Patent 9,371,153 B1

PETITIONER:

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