

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUEST USA CORP.,
Petitioner

v.

POPSOCKETS LLC,
Patent Owner.

IPR2019-01364
Patent 10,054,259 B2

Before CHRISTA P. ZADO, JESSICA C. KAISER, and
STACY B. MARGOLIES, *Administrative Patent Judges*.

KAISER, *Administrative Patent Judge*.

DECISION
Settlement Prior to Institution of Trial
37 C.F.R. § 42.74

Pursuant to Petitioner Quest USA Corp. and Patent Owner PopSockets LLC's (collectively "the Parties") joint request, the Board authorized the Parties to file a joint motion to terminate this proceeding and request to treat the settlement agreement between the Parties as business confidential and kept separate from the files of the involved patent. On January 6, 2020, Patent Owner filed, on behalf of the Parties, a "Joint Motion to Terminate Proceedings" (Paper 12) ("Joint Motion to Terminate" or "Joint Mot."), along with a copy of the settlement agreement between the Parties (Ex. 2009) ("Settlement Agreement").

Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement. *See, e.g.*, Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48768 (Aug. 14, 2012). This case is in the preliminary proceeding stage, which begins with the filing of a petition for instituting a trial and ends with a written decision as to whether trial will be instituted. *See* 37 C.F.R. § 42.2. In this proceeding, no decision whether to institute a trial has been rendered. The parties represent that Exhibit 2009 is a true and correct copy of the settlement agreement between the parties. Joint Mot. 3.

Based on the facts of the case, and in view of the parties' joint motion, we determine that it is appropriate to dismiss the Petition as to both Petitioner and Patent Owner without rendering either a decision to institute or a final written decision. *See* 37 C.F.R. §§ 42.5(a), 42.71(a). Therefore, the Joint Motion to Terminate is granted. This paper does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

In the Joint Motion to Terminate, the Parties also request that the Settlement Agreement be treated as business confidential and be kept

separate from the files of the involved patent, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Joint Mot. 3. After reviewing the Settlement Agreement between Petitioner and Patent Owner, we are persuaded that the Settlement Agreement contains confidential business information regarding the terms of settlement. We determine that good cause exists to treat the Settlement Agreement between Petitioner and Patent Owner as business confidential information, and to keep that document separate from the files of U.S. Patent 10,054,259 B2, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

Accordingly, it is

ORDERED that the Joint Motion to Terminate Proceedings is granted; and

FURTHER ORDERED that the Settlement Agreement (Exhibit 2009) shall be kept separate from the file of U.S. Patent 10,054,259 B2, 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).

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