

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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LEWIS MACHINE & TOOL COMPANY,  
Petitioner,

v.

WHG PROPERTIES, LLC,  
Patent Owner.

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IPR2020-00373  
Patent 7,600,338 B2

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Before JAMES A. TARTAL, ROBERT L. KINDER, and  
AVELYN M. ROSS, *Administrative Patent Judges*.

ROSS, *Administrative Patent Judge*.

TERMINATION

Due to Settlement After Institution of Trial  
Granting Request to Treat Settlement Agreement as  
Business Confidential Information  
*35 U.S.C. § 317; 37 C.F.R. §§ 42.72*

## INTRODUCTION

On December 15, 2020, with our prior authorization, Lewis Machine & Tool Company (“Petitioner”) and WHG Properties, LLC (“Patent Owner”) (collectively, “the parties”) filed a Joint Motion to Terminate the *inter partes* review in IPR2020-00373. Paper 19 (“Motion”). Together with the Motion, the parties filed a copy of their written Settlement Agreement (Ex. 2026, “Settlement Agreement”), and a Joint Request that the Settlement Agreement be Treated as Business Confidential Information Pursuant to 35 U.S.C. § 317(b). Paper 20 (“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.” *Consolidated Trial Practice Guide*, 86 (Nov. 2019) (“Consolidated TPG”)<sup>1</sup>; see 35 U.S.C. §317(a) and 37 C.F.R. § 42.72. Petitioner filed a petition for *inter partes* review, i.e., IPR2020-00373, challenging U.S. Patent No. 7,600,338 (“the ‘338 patent”) on January 14, 2020. Paper 1. We instituted *inter partes* review on July 27, 2020. The oral hearing is scheduled for April 27, 2021. Paper 7.

The parties explain that termination of this proceeding is appropriate “[b]ecause LMT and WHG have resolved all of their disputes regarding the ’338 Patent and there are no other outstanding disputes involving the ’338 Patent,” including this *inter partes* review as well as the related district court litigation in Illinois. Paper 19, 2; Ex. 2026, 2.

Under these circumstances, we determine that it is appropriate to enter judgment and terminate this proceeding without rendering a final written

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<sup>1</sup> Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

decision. *See* 35 U.S.C. § 317(a); 37 C.F.R. §§ 42.5(a), 42.72. After reviewing the Settlement Agreement, we further find that it contains confidential business information regarding the terms of the settlement and that good cause exists to treat the Settlement 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 Order 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 Settlement as Business Confidential Information (Paper 20) is *granted*; and

FURTHER ORDERED that the Settlement Agreement (Ex. 2026) 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 19) is *granted* and this proceeding is hereby terminated.

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Patent 7,600,338 B2

PETITIONER:

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