

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LKQ CORPORATION and
KEYSTONE AUTOMOTIVE INDUSTRIES, INC.,
Petitioner,

v.

GM GLOBAL TECHNOLOGY OPERATIONS LLC,
Patent Owner.

IPR2020-00534
Patent D797,625 S

Before JENNIFER S. BISK, GRACE KARAFFA OBERMANN, and
SCOTT A. DANIELS, *Administrative Patent Judges*.

DANIELS, *Administrative Patent Judge*.

TERMINATION
Due to Settlement After Institution of Trial
35 U.S.C. § 3[1]7; C.F.R. § 42.74

I. INTRODUCTION

With our authorization (*see* Ex. 3001), the parties filed a “Joint Motion to Terminate.” Paper 33 (“Mot.”). Along with the Joint Motion, the parties filed a settlement agreement as “Confidential Settlement Agreement.” (“Agreement,” Ex. 2009). The parties also filed a “Joint Request to Treat Exhibit 2009 as Business Confidential Information” (Paper 34, “Joint Request”). For the following reasons, we *grant* the parties’ Joint Motion to terminate this IPR, as well as the parties’ respective Joint Request to file their Agreement as business confidential information and keep separate from the files of the involved patent.

By way of background, following Petitioner’s appeal of our Final Written Decision (Paper 28) in this proceeding, in *LKQ Corp. v. GM Global Tech. Oper. LLC*, 2021-2348, (Fed. Cir.) May, 21, 2024, (“the *LKQ* Decision”), the Federal Circuit vacated the Board’s nonobviousness determination in this proceeding and remanded for further proceedings consistent with their opinion. Paper 32. Shortly after the Court remanded to the Board and issued its Mandate on June 27, 2024, Patent Owner’s counsel explained that the parties were negotiating a resolution. Ex. 3001. Counsel requested time, until August 19, 2024, for the parties to complete negotiations and request to file a motion to terminate. *Id.* In light of this request, the Board authorized the parties to file a motion to terminate under 37 CFR § 42.74 and additionally scheduled a proposed conference call for August 19th, in the event the motion to terminate was not filed or granted at that point. *Id.*

The parties filed their Joint Motion to Terminate, a first Agreement, and Joint Request on August 7, 2024. On August 19, 2024, the Board convened the proposed conference call with the parties’ counsel in order to

discuss deficiencies in the first Agreement. Ex. 3002. During the conference call counsel indicated that they would correct the deficiencies and file a second Agreement no later than August 30, 2024. Patent Owner's counsel filed the second Agreement addressing the deficiencies, also as Ex. 2009, on August 30, 2024.

The Board has not undertaken any further scheduling, analysis, or briefing procedures in this remand proceeding. And, where the current status is a remand of the nonobviousness determination in our Final Written Decision, this remand proceeding is still in its early stages because the parties have not undertaken any scheduling or substantive briefing. In the Joint Motion to terminate this IPR, the parties state that “[they] have reached a settlement that addresses this proceeding.” Mot. 1. The parties also represent “that there are no other agreements, oral or written, between the Parties made in connection with, or in contemplation of, the termination of the proceeding.” *Id.*

Under these particular circumstances we determine that good cause exists to dismiss the petition and terminate the proceeding with respect to the parties. *See* 37 C.F.R. § 42.71(a). This Order does not constitute a final written decision pursuant to 35 U.S.C. § 318(a). We also have reviewed the true copy of the parties' settlement agreement (Ex. 2009) and determine that good cause exists to treat this settlement agreement as business confidential information and keep it separate from the files of the '625 patent. *See* 35 U.S.C. § 317(b); 37 C.F.R. § 42.74(c).

II. ORDER

Accordingly, it is

ORDERED that the Joint Motion to Terminate (Paper 33) and Joint Request to File the Agreement as Business Confidential Information (Paper 34) are *granted* and this proceeding is terminated with respect to Petitioner and Patent Owner; and

FURTHER ORDERED that Exhibit 2009 be treated as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) and also remain designated as “Board Only” in the Board’s P-TACTS system.

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