

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

LBS INNOVATIONS, LLC,
Patent Owner.

IPR2020-00696
Patent 6,091,956

Before PHILLIP J. KAUFFMAN, CHRISTA P. ZADO, and JOHN D. HAMANN,
Administrative Patent Judges.

KAUFFMAN, *Administrative Patent Judge.*

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

I. INTRODUCTION

With the Board’s authorization, Petitioner and Patent Owner (collectively “the Parties”) filed a Joint Motion to Terminate the Petition for *Inter Partes* Review of U.S. Patent 6,091,956 under 37 C.F.R. § 42.71(a). Paper 6 (“Joint Motion”). In support of the Joint Motion, the Parties filed a copy of a written confidential settlement agreement. Ex. 1018 (“Settlement Agreement”). The Parties also filed a Joint Motion to Keep Confidential and Separate under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 7 (“Joint Request”).

II. DISCUSSION

In the Joint Motion, the Parties state that they have reached an agreement to jointly seek termination of the above-identified preliminary proceeding (including dismissal of the petition) and have memorialized their agreement in a written confidential settlement agreement. Joint Motion 2. The Parties represent that the Settlement Agreement filed with the Board is a true and correct copy of the Parties’ written confidential settlement agreement. *Id.* The Parties state further that their agreement fully resolves their dispute in the above-identified preliminary proceeding, and that the related District Court Litigation was dismissed. *Id.* at 2–3.

There are strong public policy reasons to favor settlement between the parties to a proceeding. *Office Patent Trial Practice Guide*, 84 Fed. Reg. 64,280 (Nov. 21, 2019). This proceeding is in its preliminary phase, and we have not yet decided whether to institute a trial in the proceeding. In view of the early stage of the proceeding and the settlement between the Parties, we determine that good cause exists and that it is appropriate to dismiss the petition and terminate the proceeding with respect to the Parties, without rendering a decision on institution or a final written decision. *See* 37 C.F.R. § 42.72.

In the Joint Request, the Parties request that the Settlement Agreement be treated as business confidential information, and kept separate from the file of the involved patent. Joint Request 1.

After reviewing the Settlement Agreement between the Parties, we find that the Settlement Agreement contains confidential business information regarding the terms of settlement. We determine that good cause exists to treat the Settlement Agreement (Ex. 1018) between the Parties as business confidential information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) and to keep it separate from the file of Patent 6,091,956.

This Order does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

Accordingly, it is:

III. ORDER

ORDERED that the Joint Motion to Terminate is *granted*, and the petition in IPR2020-00696 is dismissed and the preliminary proceeding is *terminated*; and

FURTHER ORDERED that the Joint Motion to Keep Confidential and Separate is *granted*, and the Settlement Agreement shall remain designated as “Parties and Board Only” in the Board’s filing system, shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause, and shall be kept separate from the files of US Patent 6,091,956, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

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