

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ECHELON FITNESS MULTIMEDIA, LLC,
Petitioner,

v.

PELOTON INTERACTIVE, INC.,
Patent Owner.

IPR2020-01541
Patent 10,486,026 B2

Before SCOTT A. DANIELS, RICHARD H. MARSCHALL, and
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

MARSCHALL, *Administrative Patent Judge*.

TERMINATION
Due to Settlement After Institution of Trial
35 U.S.C. § 317; 37 C.F.R. § 42.74

We entered a Final Written Decision in this matter on March 2, 2022. Paper 54. On April 1, 2022, Petitioner filed a Request for Rehearing. Paper 57. The parties filed further papers in connection with the Request for Rehearing, and the Request remains pending. *See, e.g.*, Papers 60, 61, 64, 67, 69. In an email dated November 6, 2022, Petitioner (Echelon Fitness Multimedia, LLC) and Patent Owner (Peloton Interactive, Inc.) (collectively referred to as “the parties”) indicated that they reached an agreement to settle the above-identified *inter partes* review proceeding. Ex. 3002. The Board authorized the parties to file a joint motion to terminate the proceeding and related papers on November 10, 2022. *Id.*

On November 10, 2022, pursuant to 37 C.F.R. § 42.74 and 35 U.S.C. § 317(a), the parties filed a Joint Motion to Terminate the above-identified proceeding (Paper 72 (“Joint Motion”)) and a Joint Request to File a Settlement Agreement as business confidential information and to keep said Settlement Agreement separate from the public file (Paper 74 (“Joint Request”)), along with a copy of the confidential Settlement Agreement (Ex. 2114 (“Settlement Agreement”)). According to the Joint Motion, “the Board has already decided the merits for this proceeding, and all that is still pending is [Petitioner’s] request for rehearing,” and Petitioner “hereby withdraws its request for rehearing.” Paper 72, 1–2. According to the parties, “the time for filing a rehearing request has passed” and “given that the rehearing request will be withdrawn, the time for an appeal to the United States Court of Appeals for the Federal Circuit has also passed.” *Id.* at 3.

The parties describe the copy of the confidential Settlement Agreement as “[a] true and correct copy of the Confidential Settlement Agreement,” explaining that “Petitioner and Patent Owner executed [the]

Confidential Settlement Agreement to resolve all present disputes and to avoid any additional disputes regarding the '026 patent.” Paper 72, 1, 2 (submitting that “[t]he '026 Patent is not currently asserted in litigation against any other party”), 2–3 (explaining that “this IPR is part of a much larger dispute that the parties have resolved,” as “[t]he parties have agreed to separately request dismissal/termination of another IPR involving the related '521 patent (IPR2021-00848)” as well as “three U.S. district court litigations [(Case Nos. 19-cv-01903, 21-cv-160, and 21-cv-01607)],” “appeals of IPRs involving the related '315 and '590 patents [(Case Nos. 22-1586 and -01586 (CAFC))],” and “appeals of IPR2020-01186 and IPR2020-01187”), 4; *see* Ex. 2114.

In their Joint Motion, the parties certify 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.” Paper 72, 4. The parties request that “the Confidential Settlement Agreement [(Exhibit 2114)] be treated as business confidential information, be kept separate from the file of the involved patent, and be made available only to the Federal Government agencies on written request, or to any person on showing of good cause under 35 U.S.C. § 317 and 37 C.F.R. § 42.74(c).” *Id.* at 3-4; *see also* Paper 74, 1.

Under 35 U.S.C. § 317(a), “[a]n inter partes review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” Section 317(b) requires that any agreement between the parties, including collateral agreements, made in connection with the termination of an *inter*

partes review “shall be in writing and a true copy of such agreement or understanding shall be filed in the Office before the termination of the inter partes review as between the parties.” As discussed *supra*, the parties represent and certify that they have made and signed an agreement that resolves all underlying disputes between the parties, including this proceeding, that (aside from the Settlement Agreement) “there are no other agreements, oral or written, between the parties made in connection with, or in contemplation of, the termination of the proceeding,” and that the filed copy of the Settlement Agreement is a “true and correct copy.” Paper 72, 1–4; Paper 74.

As noted above, we entered a Final Written Decision in this proceeding, and we are currently considering Petitioner’s pending Request for Rehearing. *See* Papers 54, 57. We have not yet reached a decision on the pending Request for Rehearing. The parties have shown adequately that the termination of this proceeding is appropriate. Under these circumstances, we determine that good cause exists to terminate the proceeding. We further determine that the Settlement Agreement complies with the requirements for written agreements regarding termination set forth in 35 U.S.C. § 317(b), and determine that good cause exists to treat the Settlement Agreement as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

Accordingly, we determine that it is appropriate to terminate this proceeding without rendering a decision on Petitioner’s Request for Rehearing, and grant the Joint Motion and Joint Request.

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

Accordingly, it is:

ORDERED that the Joint Motion to Terminate (Paper 72) is *granted*, and IPR2020-01541 is hereby *terminated* as to all parties;

FURTHER ORDERED that the Joint Request (Paper 74) to treat the Settlement Agreement (Exhibit 2114) as business confidential information is *granted*, and the Settlement Agreement (Exhibit 2114) shall be kept separate from the files of the above-identified proceeding and from the file of U.S. Patent No. 10,486,026 B2, under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c); and

FURTHER ORDERED that the filed Settlement Agreement (Exhibit 2114) remain designated as “Parties and Board Only” in the Board’s P-TACTS system.

IPR2020-01541
Patent 10,486,026 B2

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