Trials@uspto.gov
571-272-7822

Paper 20
Entered: October 21, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUIBI HOLDINGS, LLC,
Petitioner,

v.

JBF INTERLUDE 2009 LTD,
Patent Owner.

IPR2020-01663
Patent 9,271,015 B2

Before LYNNE E. PETTIGREW, KEVIN C. TROCK, and NABEEL U. KHAN, *Administrative Patent Judges*.

KHAN, *Administrative Patent Judge*.

TERMINATION
Due to Settlement after Institution of Trial and
Granting Joint Request to Treat Settlement Agreement as
Business Confidential Information
35 U.S.C. § 317; 37 C.F.R. § 42.74

I. INTRODUCTION

Petitioner and Patent Owner (collectively "the Parties") have requested that the above-identified *inter partes* review proceeding be terminated pursuant to a settlement. On September 16, 2021, by email, we authorized the Parties to file a joint motion to terminate the proceeding. On September 23, 2021, the Parties filed a Joint Motion to Terminate Proceeding ("Joint Motion"). Paper 17. The Parties also filed a copy of a settlement agreement (Ex. 1044, "Settlement Agreement") and filed a joint request that the Settlement Agreement be treated as business confidential information and kept separate under 37 C.F.R. § 42.74(c) (Paper 18, "Joint Request") in the proceeding.

II. DISCUSSION

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." It is also provided in 35 U.S.C. § 317(a) that if no petitioner remains in the *inter partes* review, the Office may terminate the review.

In the Joint Motion, the Parties represent that they have reached an agreement to jointly seek termination of the *inter partes* review proceeding, that the filed copy of the Settlement Agreement is a true copy, and "[t]here are no collateral agreements or understandings, oral or written, made in connection with, or in contemplation of, the termination of this *inter partes* review." Joint Motion 1.

We instituted a trial on the proceeding on April 12, 2021. Paper 10. We have not yet decided the merits of the proceeding, and a final written

decision has not been entered. Notwithstanding that the proceeding has moved beyond the preliminary stage, the Parties have shown adequately that termination of the proceeding is appropriate. Under these circumstances, we determine that good cause exists to terminate the proceeding with respect to the Parties.

The Parties also requested that the Agreement be treated as business confidential information and be kept separate from the file of Patent 9,271,015. Joint Request 1. After reviewing the Settlement Agreement, 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 as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

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

III. ORDER

Accordingly, for the reasons discussed above, it is:

ORDERED that the Joint Motion is *granted*, and IPR2020-01663 is *terminated* with respect to Petitioner and Patent Owner, pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72; and

FURTHER ORDERED that the Joint Request is *granted*, and the Settlement Agreement shall be kept separate from the file of Patent 9,271,015, 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).

For PETITIONER:

Mehran Arjoman
Bryan Blumenkopf
MORRISON & FOERSTER LLP
marjomand@mofo.com
bblumen@mofo.com

For PATENT OWNER:

Sanjeet Dutta
Patrick McCarthy
GOODWIN PROCTER LLP
sdutta@goodwinlaw.com
pmccarthy@goodwinlaw.com