

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYCO INDUSTRIES, INC.,
Petitioner,

v.

BLEPHEX, LLC,
Patent Owner.

IPR2020-01738
Patent 10,449,087 B2

Before MEREDITH C. PETRAVICK, SCOTT A. DANIELS, and
SCOTT C. MOORE, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

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

I. INTRODUCTION

Petitioner and Patent Owner jointly request that the above-referenced *inter partes* review proceeding be terminated pursuant to a settlement. On March 2, 2021, with our authorization¹, Petitioner filed a Joint Motion to Terminate Proceeding (Paper 9), a copy of a Confidential Settlement Agreement (Ex. 1058), and a Joint Motion to Treat as Confidential (Paper 10).

II. DISCUSSION

In the Joint Motion to Terminate Proceeding, the parties represent that they “have reached an agreement to terminate IPR2020-01738.” Paper 9, 1. The parties also represent that the Settlement Agreement has been made in writing, and that they filed a true copy of the same as Exhibit 1058. *Id.* at 2.

This proceeding is at an early stage, and we have not yet decided whether to institute an *inter partes* review. In view of the early stage of the proceeding and the agreement between the parties to terminate the proceeding, we determine that good cause exists to end the proceeding.

With respect to the parties’ Joint Motion to Treat as Confidential, we have reviewed the Settlement Agreement, and find 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).

¹ We authorized the filing of this joint motion via email on February 25, 2021.

III. CONCLUSION

For the foregoing reasons, we grant the parties' Joint Motion to Terminate Proceeding and Joint Motion to Treat as Confidential. This determination does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

IV. ORDER

Accordingly, it is:

ORDERED that the Joint Motion to Terminate Proceeding is *granted*, and IPR2020-01738 is *terminated* due to settlement prior to institution of trial with respect to Petitioner and Patent Owner pursuant to 37 C.F.R. § 42.74; and

FURTHER ORDERED that the Joint Motion to Treat as Confidential is *granted*, and the Settlement Agreement shall be kept separate from the file of U.S. Patent No. 10,449,087 B2, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 37 C.F.R. § 42.74(c).

IPR2020-01738
Patent 10,449,087 B2

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