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Paper 9
Entered: September 1, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RUBRIK, INC.,
Petitioner,

v.

COMMVAULT SYSTEMS, INC.,
Patent Owner.

IPR2021-00535 (Patent No. 8,447,728 B2), IPR2021-00589 (Patent No. 7,725,671 B2), IPR2021-00590 (Patent No. 7,840,533 B2), IPR2021-00609 (Patent No. 10,210,048 B2), IPR2021-00673 (Patent No. 9,740,723 B2), IPR2021-00674 (Patent No. 9,740,723 B2), IPR2021-00675 (Patent No. 10,248,657 B2)

Before KARL D. EASTHOM, JENNIFER MEYER CHAGNON, and DAVID COTTA, *Administrative Patent Judges*.

COTTA, *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 proceedings be terminated pursuant to a settlement. On August 31, 2021, with our authorization (Ex. 3001), in each proceeding, Petitioner filed a Joint Motion to Terminate (Paper 10), a copy of the Settlement and Patent License Agreement governing their settlement (Ex. 2100), and a Joint Request to Treat the Settlement and Patent License Agreement as Business Confidential Information (Paper 11).[1]

II. DISCUSSION

In the Joint Motion to Terminate, the parties represent that they have reached an agreement to settle all pending litigation, including these proceedings. Paper 10, 1–3. The parties also represent that the Settlement and Patent License Agreement has been made in writing and that they filed a true and correct copy of the same with the Office. *Id.* at 4; *see also* Ex. 2100.

These proceedings are at an early stage, and we have not yet decided whether to institute review. In view of the early stage of the proceedings and the agreement between the parties to terminate the proceedings, we determine that good cause exists to end the proceedings.

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[1] We reference the papers numbers in IPR2021-00535, which are representative. The parties indicate "substantially identical" motions were filed in each of the captioned proceedings. Paper 10, 1; Paper 11, 1 n.1.

With respect to the parties' Joint Request to Treat Settlement and Patent License Agreement as Business Confidential Information, we have reviewed the Settlement and Patent License Agreement, and find that it contains confidential business information regarding the terms of settlement. We determine that good cause exists to treat the Settlement and Patent License Agreement as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

III. CONCLUSION

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

IV. ORDER

Accordingly, it is

ORDERED that the Joint Motion to Terminate is *granted*, and each proceeding 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 Settlement and Patent License Agreement shall be kept separate from the files of the patents at issue in these proceedings, 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).

PGR2021-00022 (Patent No. 10,709,894)
PGR2021-00023 (Patent No. 10,709,894)
PGR2021-00024 (Patent No. 10,695,576)
PGR2021-00025 (Patent No. 10,695,576)
IPR2021-00296 (Patent No. 10,493,293)
IPR2021-00312 (Patent No. 10,478,634)

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