

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

IDEAL INDUSTRIES LIGHTING LLC,
d/b/a CREE LIGHTING,
Petitioner,

v.

RAB LIGHTING INC.,
Patent Owner.

IPR2021-00646 (Patent 8,985,816 B2)
IPR2021-00655 (Patent 9,010,970 B2)¹

Before MICHELLE N. ANKENBRAND, CHRISTOPHER L. CRUMBLY,
and BRIAN D. RANGE, *Administrative Patent Judges*.

ANKENBRAND, *Administrative Patent Judge*.

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

¹ We exercise our discretion to issue one order addressing each of the above-captioned proceedings. The proceedings are not consolidated, and the parties are not authorized to use this caption format.

I. INTRODUCTION

With our authorization, Petitioner and Patent Owner filed a Joint Motion to terminate² due to settlement (“Joint Motion”) in each of the above-identified proceedings. Paper 23.³ In support of the Joint Motion, the parties filed a corresponding Patent Cross-License Agreement, (Ex. 2024, “Settlement Agreement”), as well as a Joint Request to Treat Settlement Agreement as Business Confidential Information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (Paper 24, “Joint Request”).

II. DISCUSSION

The parties represent in the Joint Motion that they have reached an agreement to seek termination of these proceedings, and that the copy of the Settlement Agreement filed in each proceeding is a “true copy” of the parties’ agreement. Joint Motion 1. The parties further represent that their Settlement Agreement resolves all currently pending Office and district court proceedings between the parties involving U.S. Patent Nos. 8,985,816 B2 and 9,010,970 B2 (the “challenged patents”). *Id.* at 3; *see* IPR2021-00655, Paper 22 at 3. Accordingly, the parties jointly request that we terminate the proceedings. Joint Motion 3.

The Board generally expects that a case “will terminate after the filing of a settlement agreement, unless the Board has already decided the merits.” *Patent Trial and Appeal Board Consolidated Trial Practice Guide* 86 (Nov.

² Although the parties style the Joint Motion as a motion to dismiss the petition, because we already instituted trial, we understand that the parties intend to terminate the proceeding under 35 U.S.C. § 317(a).

³ The motion and exhibits filed in IPR2021-00646 and IPR2021-00655 are substantively the same. We cite to the papers and exhibits filed in IPR2021-00646, unless otherwise noted.

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2019)⁴; *see* 35 U.S.C. §317(a); 37 C.F.R. § 42.72. Here, although we instituted an *inter partes* review of each of the challenged patents on September 24, 2021 (Paper 8 in both proceedings), we have not decided the merits of the proceedings. Under these circumstances, we determine that it is appropriate to terminate each proceeding without rendering a final written decision.

The parties also request that we treat the Settlement Agreement as business confidential information and keep the Settlement Agreement separate from the files of the challenged patents. Joint Request 1. We have reviewed the Settlement Agreement and find that it contains confidential business information regarding the terms of settlement. We determine that good cause exists to treat the Settlement Agreement filed in each proceeding as business confidential information pursuant to 37 C.F.R. § 42.74(c).

III. ORDER

Accordingly, for the reasons discussed above, it is:

ORDERED that the Joint Motion to Terminate filed in each proceeding is *granted*;

FURTHER ORDERED that IPR2021-00646 and IPR2021-00655 are *terminated*;

FURTHER ORDERED that the Joint Request to Treat Settlement Agreement as Business Confidential Information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) filed in each proceeding is *granted*;

FURTHER ORDERED that the Settlement Agreement will be kept separate from the files of U.S. Patent Nos. 8,985,816 B2 and 9,010,970 B2,

⁴ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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and made available only to Federal Government agencies on written request,
or to any person on a showing of good cause, under 37 C.F.R. § 42.74(c);
and

FURTHER ORDERED that this Order does not constitute a final
written decision pursuant to 35 U.S.C. § 318(a).

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