

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AVERY DENNISON RFID COMPANY and AVERY DENNISON
RETAIL INFORMATION SERVICES LLC,
Petitioner,

v.

EVERYTHNG LIMITED,
Patent Owner.

IPR2021-01259
Patent 9,794,321 B2

Before NEIL T. POWELL, SHARON FENICK, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

FENICK, *Administrative Patent Judge*.

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

Petitioner (Avery Dennison RFID Company and Avery Dennison Retail Information Services LLC) and Patent Owner (EVERYTHING Limited) (collectively referred to as “the parties”) have indicated that they have reached an agreement to settle the above-identified *inter partes* review proceeding. The Board authorized the parties to file a joint motion to terminate the proceeding on March 23, 2022.

On March 28, 2022, pursuant to 37 C.F.R. § 42.74 and 35 U.S.C. § 317(a), the parties filed a Joint Request to Terminate the above-identified proceeding (Paper 18 (“Joint Motion”)) and a Joint Request to Treat a Settlement Agreement as business confidential information and to keep said Settlement Agreement separate from the public file (Paper 17 (“Joint Request”)), along with a copy of the confidential Settlement Agreement (Ex. 1018 (“Settlement Agreement”)). The parties describe the copy of the confidential Settlement Agreement as “a true and correct copy [of the written Settlement Agreement],” explaining that “[t]he Parties have settled their disputes and executed [the] settlement agreement to terminate this proceeding, as well as the Parties’ related district court litigation regarding the patent-at-issue.” Paper 18, 3–4; *see* Ex. 1018. In their Joint Motion, the parties certify that “[t]here is no litigation involving the [9,794,321] patent beyond the present IPR and the [related] district court litigation [referenced *supra*],” “[t]here are no other proceedings currently before the office involving the patent-at-issue, or any related patents,” and “[n]o parties are involved in the district court litigation beyond those that are involved in the present IPR.” Paper 18, 3. The parties request that “the Settlement Agreement (Exhibit 1018) . . . be treated as business confidential

information and kept separate from the files of the involved patent and *inter partes* review proceeding.” Paper 17, 2; Paper 18, 4.

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 35 U.S.C. § 317(a) also provides that if no petitioner remains in the *inter partes* review, the Office may terminate the review. We have not yet decided the merits of this proceeding, and a final written decision has not been entered in this proceeding. We determine that it is appropriate to terminate the proceeding. After reviewing the Settlement Agreement between Petitioner and Patent Owner, we determine that good cause exists to treat the Settlement Agreement between Petitioner and Patent Owner as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

We accordingly determine that it is appropriate to terminate this proceeding without rendering a Final Written Decision as to the patentability of the challenged claims of U.S Patent 9,794,321 B2, 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 Request to Terminate (Paper 18) is *granted*, and IPR2021-01259 is hereby *terminated* as to all parties;

FURTHER ORDERED that the Joint Request (Paper 17) to treat the

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Settlement Agreement (Exhibit 1018) as business confidential information is *granted*, and the Settlement Agreement (Exhibit 1018) shall be kept separate from the files of the above-identified proceeding and from the file of U.S. Patent 9,794,321, 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 1018) remain designated as “Parties and Board Only” in the Board’s E2E system.

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