

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

STAYLINKED CORPORATION,
Petitioner,

v.

IVANTI, INC.,
Patent Owner.

IPR2021-01366
Patent 9,648,083 B2

Before GEORGIANNA W. BRADEN, SHARON FENICK, and
STEVEN M. AMUNDSON, *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

I. INTRODUCTION

Petitioner (StayLinked Corporation) and Patent Owner (Ivanti, Inc.) (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 April 18, 2022. On April 18, 2022, the parties filed a Joint Motion to Terminate the proceeding pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. §§ 42.72 and 42.74. Paper 22 (“Joint Motion”). Along with the Joint Motion, the parties filed a copy of a Confidential Settlement Agreement. Ex. 1048 (“Settlement Agreement”). The parties also filed a Joint Motion to Treat Settlement Agreement as Business Confidential Information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) in the proceeding. Paper 24 (“Joint Request”).

II. DISCUSSION

In the Joint Motion, the parties represent that they have reached an agreement to jointly seek termination of the above-identified proceeding, that there are no other agreements between the parties made in connection with the termination of this proceeding other than the Settlement Agreement, and that a copy of the Settlement Agreement has been filed. Paper 22, 3. The parties further represent that the Settlement Agreement resolves all currently pending Patent Office and District Court proceedings between the parties involving U.S. Patent 9,648,083 B2. *See id.* at 3–4.

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.” 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. Notwithstanding that the proceeding has moved beyond the preliminary stage, the parties have shown adequately that the termination of the proceeding is appropriate. Under these circumstances, we determine that good cause exists to terminate the proceeding.

In the Joint Request, the parties request that the Settlement Agreement be treated as business confidential information and “and kept separate from the files of the involved patent and *inter partes* review proceeding.” Paper 24, 2. After reviewing the Settlement Agreement between Petitioner and Patent Owner, 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). Additionally, we determine that good cause exists to keep the Settlement Agreement separate from the files of the involved patent, per 37 C.F.R. § 42.74(c). The rule does not contemplate keeping the Settlement Agreement separate from the files of this *inter partes* review proceeding; however, the Settlement Agreement will remain designated as “Parties and Board Only” in the Board’s E2E system.

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

III. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Joint Motion to Terminate (Paper 22) is *granted* and IPR2021-01366 is hereby *terminated* as to all parties;

FURTHER ORDERED that the Joint Motion to Treat Settlement Agreement as Business Confidential Information (Paper 24) is *granted-in-part* as discussed above, and the Settlement Agreement (Ex. 1048) shall be kept separate from the files of U.S. Patent 9,648,083 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); and

FURTHER ORDERED that the filed Settlement Agreement (Ex. 1048) remain designated as “Parties and Board Only” in the Board’s E2E system.

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