

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BUMBLE TRADING, LLC,
Petitioner,

v.

WIRELESS DISCOVERY LLC,
Patent Owner.

IPR2021-01407
Patent 10,321,267 B2

Before MICHAEL R. ZECHER, KEVIN C. TROCK, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

AMUNDSON, *Administrative Patent Judge*.

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

Bumble Trading, LLC (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1–18 in U.S. Patent No. 10,321,267 B2 (Ex. 1001, “the ’267 patent”) under 35 U.S.C. §§ 311–319. Paper 2. Wireless Discovery LLC (“Patent Owner”) filed a Preliminary Response. Paper 8.

After receiving Board authorization, Petitioner and Patent Owner filed a Joint Motion to Dismiss this proceeding under 35 U.S.C. § 317 and 37 C.F.R. § 42.74. Paper 11. The parties also filed a true copy of a settlement agreement titled “License, Release, and Settlement Agreement.” Ex. 1027. In addition, the parties filed a joint request that the settlement agreement be treated as business confidential information and be kept separate under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 12.

The parties represent that they have (1) “settled all of their disputes involving the ’267 Patent, including the District Court Litigation, which is the only litigation involving the ’267 Patent,” and (2) “entered into a Settlement Agreement, a true copy of which is being filed herewith as Exhibit 1027.” Paper 11, 1–2. The parties “certify that there are no collateral agreements or understandings made in connection with, or in contemplation of, the termination of” this proceeding. *Id.* at 1–2. Additionally, the parties contend that dismissing this proceeding under these circumstances “would conserve the Board’s resources and help promote the Board’s policy of ensuring ‘just, speedy, and inexpensive’ resolution to every proceeding.” *Id.* at 3 (quoting 37 C.F.R. § 42.1(b)).

This proceeding is still in a preliminary stage. Petitioner filed the Petition on September 15, 2021. Patent Owner filed the Preliminary Response on December 20, 2021. The Board has not yet decided whether

to institute an *inter partes* review. Terminating this proceeding will save the Board administrative and judicial resources, e.g., in conducting an oral argument and issuing a final written decision to decide the patentability issues raised in the Petition. Further, “[t]here are strong public policy reasons to favor settlement between the parties to a proceeding,” and “[t]he Board expects that a proceeding will terminate after the filing of a settlement agreement, unless the Board has already decided the merits of the proceeding.” *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012).

Under these circumstances, we determine that it is appropriate to terminate this proceeding without rendering any further decisions. We also determine that it is appropriate to treat the parties’ settlement agreement (Exhibit 1027) as business confidential information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). This Order does not constitute a final written decision under 35 U.S.C. § 318(a).

ORDER

Accordingly, it is

ORDERED that the parties’ Joint Motion to Dismiss (Paper 11) is granted;

FURTHER ORDERED that this proceeding is terminated as to all parties; and

FURTHER ORDERED that, as timely requested by the parties (Paper 12), the parties’ settlement agreement (Exhibit 1027) shall be treated as business confidential information and be kept separate from the file of U.S. Patent No. 10,321,267 B2 and made available only under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

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