

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FLORIDA FOOD PRODUCTS, LLC,

Petitioner,

v.

KERRY GROUP SERVICES INT'L, LTD.,

Patent Owner.

IPR2022-00006

Patent 11,071,304 B2

Before JOHN G. NEW, CHRISTOPHER M. KAISER and
JULIA HEANEY, *Administrative Patent Judges*.

NEW, *Administrative Patent Judge*.

TERMINATION AND ORDER

Due to Settlement After Conclusion of Trial and Appeal and Treating
Settlement Agreement as Business Confidential Information

35 U.S.C. § 317; 37 C.F.R. § 42.7

I. INTRODUCTION

On April 26, 2023, the Board entered a Final Written Decision (the “Decision”) in this case, canceling all challenged claims of U.S. Patent 11,071,304 B2 (the “’304 patent”). Paper 43. On June 23, 2024, Patent Owner Kerry Group Services Int’l Ltd. (“Patent Owner”) filed a Notice of Appeal with the Board, and appealed the Board’s Decision to the U.S. Court of Appeals for the Federal Circuit, pursuant to 35 U.S.C. §§ 141 and 142 and 37 C.F.R. § 90.2(a). Paper 44. On February 24, 2025, the Federal Circuit issued its Decision and, on April 2, 2025, a Mandate, vacating the Board’s Decision and remanding the case to the Board for further proceedings. Papers 46, 47.

On April 24, 2025, with Board authorization in an e-mail sent April 17, 2025 (*see* Ex. 3002), Petitioner Florida Food Products, LLC (“Petitioner”) and Patent Owner filed a “Joint Motion to Terminate” this proceeding. Paper 49 (the “Motion”). Petitioner and Patent Owner subsequently filed a copy of documents entitled “Confidential Settlement and License Agreement” (Ex. 1040) (the “Settlement Agreement”), as well as a “Joint Agreement to Treat Settlement Agreement as Business Confidential Information.” Paper 50 (the “Confidentiality Agreement”).

Referring to the Settlement Agreement, the Motion states that “[t]here are no collateral agreements or understandings,” and that “a true and correct copy of each Agreement will be filed as Exhibit 1040, along with a joint motion to treat the settlement agreement as business confidential information,” which appears to be the Settlement Agreement. Motion 1. The Motion further states that:

Petitioner and Patent Owner have agreed to a settlement resolving their dispute regarding a counterpart of the ’304

patent, and as part of the settlement Petitioner has been granted a license to the '304 patent and has agreed not to further contest this proceeding.... [T]he proceeding is still ongoing with significant work still to be done following remand from the Court of Appeals for the Federal Circuit. Terminating the proceeding now would thus serve the interests of judicial economy as well as the interests of the parties.

Id.

II. DISCUSSION

Notwithstanding that this proceeding has been remanded to the Board by the Federal Circuit for further findings of fact and conclusions of law, Petitioner and Patent Owner have sufficiently shown that termination of the proceeding is appropriate for each party and in the interest of judicial economy. Given these circumstances, we determine that good cause exists to terminate the proceeding.

In their Confidentiality Agreement, the parties jointly requested that the Settlement Agreements be treated as business confidential information and be kept separate from the file of the '304 patent. *See* Confidentiality Agreement 4. After reviewing the Settlement and Confidentiality Agreements, we find that they contain confidential business information regarding the terms of settlements. We consequently 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).

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 Motion to Terminate (Paper 49) is granted, the petition in IPR2022-00006 is dismissed, and the proceeding is terminated.

FURTHER ORDERED that the parties' Settlement Agreement is to be treated as business confidential information, and is to be kept separate from the file of the '304 patent.

PGR2022-00006
Patent 11,071,304 B2

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