

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETGEAR, INC,
Petitioner,

v.

XR COMMUNICATIONS LLC D/B/A VIVATO TECH.,
Patent Owner.

IPR2022-00613¹
Patent 10,594,376 B2

Before BARBARA A. PARVIS, JAMES J. MAYBERRY, and
KARA L. SZPONDOWSKI, *Administrative Patent Judges*.

MAYBERRY, *Administrative Patent Judge*.

TERMINATION

Due to Settlement After Institution of Trial and
Granting Joint Request to Treat Settlement
Agreement as Business Confidential Information
35 U.S.C. § 317; 37 C.F.R. § 42.74

¹ NETGEAR, Inc. and Aruba Networks LLC, which filed a petition in IPR2023-00136; and eero LLC, which filed a petition in IPR2023-00174, were joined as Petitioner in this proceeding.

I. INTRODUCTION

With the Board’s authorization, NETGEAR, Inc. (“NETGEAR”), and XR Communications d/b/a/ Vivato Technologies (“Patent Owner”) (collectively, “the Parties”) filed a Joint Motion to Terminate the above-captioned *inter partes* review proceeding. Paper 49 (“Joint Motion”), *see id.* at 1 (“The [P]arties were authorized to file this joint motion to terminate by the Board via an email dated September 29, 2023”). The Parties also filed a joint request that the settlement agreement between the Parties be treated as business confidential information and kept separate from the file of U.S. Patent No. 10,594,376 B2 (“the ’376 patent”). Paper 50 (“Joint Request to Keep Separate”).

Along with the Joint Motion and Joint Request to Keep Separate, the Parties filed a copy of the Confidential Settlement Agreement between the Parties. Ex. 2025 (“Settlement Agreement”).

We instituted trial in the IPR2023-00613 proceeding on October 20, 2022, based on a Petition filed by Cisco Systems, Inc., Google LLC, Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc. *See* Paper 12. NETGEAR, Inc. and Aruba Networks LLC, which filed a petition in IPR2023-00136; and eero LLC, which filed a petition in IPR2023-00174, were joined as Petitioner in this proceeding. Papers 25, 26. All of the petitioners except for NETGEAR were subsequently terminated from this proceeding based on settlements. *See* Papers 34, 40.

II. DISCUSSION

A. *Joint Motion to Terminate Proceeding*

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.

The Parties state that the pending District Court litigation between them involving the ’376 patent has been dismissed, and that they “do not contemplate any future litigation or proceeding involving the” ’376 patent. Joint Motion 2–3. The Parties indicate Exhibit 2025 represents a copy of the settlement agreement between the Parties, and “[t]here are no other collateral agreements between the Parties made in connection with, or in contemplation of, the termination sought.” *Id.* at 1.

A final written decision has not been entered in this proceeding. Under this circumstance and in view of the Parties’ settlement, we determine that good cause exists to terminate the proceeding.

B. Joint Request to Keep Separate

In the Joint Request to Keep Separate, the Parties request that the Settlement Agreement be treated as business confidential information, be kept separate from the file of the ’376 patent, and be made available only as permitted pursuant to the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Joint Request 1.

After reviewing the Settlement Agreement, we determine that good cause exists to treat the Settlement Agreement as business confidential information pursuant to 37 C.F.R. § 42.74(c), and we grant the Parties’ request in that regard.

III. ORDER

Accordingly, it is:

ORDERED that the Joint Motion to Terminate (Paper 49) is *granted*, and IPR2022-00613 is *terminated* with respect to NETGEAR and Patent Owner; and

FURTHER ORDERED that the Parties' request to treat the Settlement Agreement as business confidential information (Paper 50) is *granted*, and the Settlement Agreement (Ex. 2025) shall be kept separate from the file of U.S. Patent No. 10,594,376 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).

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