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Paper 18
Date: January 10, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,
Petitioner,

v.

DIATEK LICENSING, LLC,
Patent Owner.

IPR2022-00638
Patent 7,079,752 B1

Before KEVIN F. TURNER, JEFFREY S. SMITH, and NABEEL U. KHAN, *Administrative Patent Judges*.

KHAN, *Administrative Patent Judge*.

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

I. INTRODUCTION

With the Board's authorization, Petitioner and Patent Owner (collectively referred to as "the Parties") filed a Joint Motion to Terminate the above-identified proceeding due to settlement. Paper 15 ("Joint Motion"). In support of the Joint Motion, the Parties filed a Confidential Settlement and License Agreement (Ex. 1020 ("Settlement Agreement")), as well as a Joint Motion to Keep Confidential and Separate pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (Paper 16 ("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 *inter partes* review proceeding, and that the filed copy of the Settlement Agreement is a true and complete copy. Paper 15, 1. The Parties further represent that their Settlement Agreement resolves all currently pending Patent Office and District Court proceedings between the Parties involving the above-identified patent at issue. *Id.* at 3.

We instituted a trial on the above-identified proceeding on September 15, 2022. Paper 10. We have not yet decided the merits of the proceeding, and a final written decision has not been entered. 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 with respect to the Parties.

The Parties also filed a Joint Request that the Settlement Agreement be treated as business confidential information and be kept separate from the file of the patent involved in this *inter partes* proceeding. Paper 16. 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 between Petitioner and Patent Owner as business confidential information pursuant to 37 C.F.R. § 42.74(c).

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

Accordingly, for the reasons discussed above, it is:

III. ORDER

ORDERED that the Joint Motion to Terminate is *granted*, and the proceeding is *terminated*;

FURTHER ORDERED that the Joint Request to Keep Confidential and Separate is *granted*, and the Settlement Agreement shall be kept separate from the files of Patent 7,079,752 B1 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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