

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,
Petitioner,

v.

INVINCIBLE IP LLC,
Patent Owner.

IPR2022-01168
Patent 9,635,134 B2

Before LYNNE E. PETTIGREW, BARBARA A. PARVIS, and
CHRISTOPHER L. OGDEN, *Administrative Patent Judges*.

PARVIS, *Administrative Patent Judge*.

TERMINATION
Due to Settlement After Institution of Trial
35 U.S.C. § 317; 37 C.F.R. § 42.74

I. INTRODUCTION

On April 26, 2023, with the Board’s authorization, Petitioner Unified Patents, LLC and Patent Owner Invincible IP LLC (collectively referred to as “the Parties”) filed a Joint Motion to Terminate the above-identified proceeding due to settlement. Paper 8 (“Joint Motion”). In support of the Joint Motion, the Parties filed a Confidential Settlement Agreement (Ex. 1031 (“Settlement Agreement”)), as well as a Joint Motion to Keep Confidential and Separate the Settlement Agreement pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (Paper 9 (“Joint Request”)).

II. DISCUSSION

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.” Section 317(a) also provides that if no petitioner remains in the *inter partes* review, the Office may terminate the review.

In the Joint Motion, the Parties represent that they have reached an agreement to jointly seek termination of this *inter partes* review proceeding, and that the filed copy of the Settlement Agreement is a true and complete copy. Joint Motion 1, 3. The Parties further represent that their settlement agreement “fully resolves this matter” and “[t]here are currently no active district court cases involving the ’134 Patent.” *Id.* at 1, 3.

We instituted trial in the above-identified proceeding on January 27, 2023. Paper 6. The trial is still at an early stage. An oral hearing has not yet been held, 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 termination 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 involved patent in this *inter partes* review proceeding. Paper 9, 1. 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 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

Accordingly, for the reasons discussed above, it is:

ORDERED that the Joint Motion to Terminate is *granted*, and IPR2022-01168 is *terminated* with respect to Petitioner and Patent Owner pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72; and

FURTHER ORDERED that the Joint Motion to Keep Confidential and Separate is *granted*, and the Settlement Agreement shall be kept separate from the file of Patent 9,635,134, and made available only to Federal Government agencies on written request, or to any person on a

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showing of good cause, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R.
§ 42.74(c).

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