

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE HILLMAN GROUP, INC.,
Petitioner,

v.

HY-KO PRODUCTS COMPANY LLC,
Patent Owner.

IPR2022-01360 (Patent 9,101,990 B2)
IPR2022-01361 (Patent 9,925,601 B2)¹

Before MICHAEL R. ZECHER, PATRICK R. SCANLON, and
NEIL T. POWELL, *Administrative Patent Judges*.

ZECHER, *Administrative Patent Judge*.

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

¹ This Decision addresses an issue that is identical in both cases. We, therefore, exercise our discretion to issue one Decision to be filed in each case.

I. DISCUSSION

On January 11, 2023, with our authorization, Petitioner, The Hillman Group, Inc. (“Hillman”) and Patent Owner, Hy-Ko Products Company LLC (“Hy-Ko”), jointly filed the following in each of the proceedings identified above: (1) a Joint Motion to Terminate Proceeding (Paper 6, “Mot.”)²; (2) a true copy of the parties’ settlement agreement (Ex. 1025); and (3) a Joint Request to Treat Settlement Agreement as Business Confidential Information Pursuant to 35 U.S.C. § 317(b) (Paper 7). For the following reasons, we *grant* the parties’ Joint Motions to Terminate Proceeding and their joint requests to keep the settlement agreement as business confidential information.

These proceedings are still in their preliminary stages. On August 11, 2022, Hillman filed a Petition requesting an *inter partes* review (“IPR”) of claims 1–11, 13–24, 26, and 27 of U.S. Patent No. 9,101,990 B2 and a Petition requesting an IPR of claims 1–9, 11–20 and 22–25 of U.S. Patent No. 9,925,601 B2. IPR2022-01360, Paper 1; IPR2022-01361, Paper 1. In each proceeding, Hy-Ko has not filed a Patent Owner’s Preliminary Response and we have not entered an institution decision.

In the Joint Motion to Terminate Proceeding, the parties indicate that they “have entered into a settlement agreement that resolves all underlying disputes between the parties,” including these two IPR proceedings. Mot. 2.³ The parties represent that “a true copy of the settlement agreement between the parties is being submitted concurrently herewith.” *Id.* The parties also represent that “[t]here are

² Unless otherwise noted, all citations are to the papers and exhibits filed in IPR2022-01360. Similar papers and exhibits were filed in IPR2022-01361.

³ The Joint Motion to Terminate Proceeding does not include page numbers. We consider the title page as page 1 and then proceed from there in numerical order.

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no other agreements, oral or written, between the parties made in connection with, or in contemplation of, the termination of [these] proceeding[s].” *Id.* Lastly, the parties represent that “the [settlement] agreement ends all patent disputes between the parties.” *Id.*

Under these particular circumstances, we determine that it is appropriate to dismiss both Petitions without rendering any further decisions, thereby terminating these proceedings. *See* 37 C.F.R. § 42.71(a). We also have reviewed the true copy of the parties’ settlement agreement, and we determine that good cause exists to treat this settlement agreement as business confidential information, and keep it separate from the file of the involved patents, under 37 C.F.R. § 42.74(c).

II. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the parties’ joint requests to treat the true copy of their settlement agreement filed in each proceeding as business confidential information, and to keep separate from the file of the involved patent, under 37 C.F.R. § 42.74(c) are *granted*;

FURTHER ORDERED that the following documents shall remain business confidential information, and shall be kept separate from the file of the involved patent: (1) IPR2022-01360, Exhibit 1025; and (2) IPR2022-01361, Exhibit 1027; and

FURTHER ORDERED that the parties’ Joint Motions to Terminate Proceeding are *granted*, and both Petitions are dismissed resulting in termination of these proceedings.

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For PETITIONER:

Joshua L. Goldberg

Ryan P. O'Quinn

David C. Reese

A. Grace Mills

Nate S. Sunwoo

Finnegan, Henderson, Farabow, Garrett & Dunner LLP

joshua.goldberg@finnegan.com

oquinnr@finnegan.com

david.reese@finnegan.com

gracie.mills@finnegan.com

nate.sunwoo@finnegan.com

For PATENT OWNER:

David B. Cupar

Matthew J. Cavanagh

Todd A. Benni

McDONALD HOPKINS LLC

dcupar@mcdonaldhopkins.com

mcavanagh@mcdonaldhopkins.com

tbenni@mcdonaldhopkins.com