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Paper 35
Entered: October 13, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EVE ENERGY CO., LTD.,
Petitioner,

v.

VARTA MICROBATTERY GMBH,
Patent Owner.

IPR2022-01473 (Patent 11,024,904 B2)
IPR2022-01476 (Patent 11,024,905 B2)
IPR2022-01478 (Patent 11,024,907 B2)
IPR2023-00121 (Patent 11,258,092 B2)
IPR2023-00160 (Patent 11,024,869 B2)

Before CHRISTOPHER L. CRUMBLEY, JO-ANNE M. KOKOSKI, CHRISTOPHER M. KAISER, and BRIAN D. RANGE, *Administrative Patent Judges*.[1]

CRUMBLEY, *Administrative Patent Judge*.

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

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[1] This Order addresses substantively identical motions filed in each of the listed proceedings. We issue one Order to be filed in each proceeding. The listing of all the Judges here does not expand any of the panels.

On October 3, 2023, pursuant to Board authorization, the parties filed Joint Motions to Terminate these five related *inter partes* reviews. Paper 24.[2] In support of the Motions, the parties filed copies of a Settlement Agreement (Ex. 2100) and Joint Requests to keep the Settlement Agreement confidential and separate, pursuant to 35 U.S.C. § 317(b). Paper 23. The parties move to terminate all five *inter partes* reviews. Paper 24.

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 patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed." In these proceedings, the Board has not yet reached a decision on the merits with respect to the patentability of any involved claim. Accordingly, we are required by statute to terminate the proceedings with respect to Petitioner, EVE Energy.

Furthermore, "[i]f no petitioner remains in the inter partes review, the Office may terminate the review or proceed to a final written decision under section 318(a)." *Id.* As set forth above, no petitioner remains in the *inter partes* reviews. The Board, therefore, has discretion to terminate this review with respect to the Patent Owner, VARTA Microbattery. In their Joint Motions, the parties note that they have settled their disputes, both before the Board and before the District Court. Paper 24, 3–4. In addition, the parties

[2] For expediency, we refer to Paper and Exhibit numbers for the documents filed in IPR2022-01473. Substantively identical Papers may be found in the records of the related cases.

contend that termination of these proceedings would conserve Board resources. *Id*. These facts support termination of the proceedings without proceeding to final written decisions.

In these circumstances, we determine that it is appropriate to terminate these *inter partes* reviews without rendering a final written decision. *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72.

In the Joint Requests, the parties request that the Settlement Agreement be treated as business confidential information and be kept separate from the files of the patents at issue. Paper 23. Having reviewed the Settlement Agreement between the parties, 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 the parties as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

ORDER

In light of the foregoing, it is

ORDERED that the Joint Motions to Terminate these proceedings are *granted*;

FURTHER ORDERED that these *inter partes* reviews are hereby *terminated*; and

FURTHER ORDERED that the Joint Requests to Keep Confidential and Separate are *granted*, and the Settlement Agreement shall be treated as business confidential information pursuant to 35 U.S.C. § 317(b) and 37

C.F.R. § 42.74(c), be kept separate from the file of the patents challenged in these proceedings, and also remain designated as available only to "Parties and Board" in the Board's filing system.

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