

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,
Petitioner,

v.

SUNFLOWER LICENSING LLC,
Patent Owner.

IPR2022-01498
Patent 7,398,005 B2

Before DEBRA K. STEPHENS, CHRISTOPHER L. OGDEN, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

AMUNDSON, *Administrative Patent Judge*.

DECISION
Settlement Prior to Institution of Trial
Granting Joint Motion to Dismiss
Granting Joint Motion to Keep Confidential and Separate
37 C.F.R. § 42.74

I. INTRODUCTION

Unified Patents, LLC (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1, 4–9, 11, and 14–19 in U.S. Patent No. 7,398,005 B2 (Exhibit 1001, “the ’005 patent”) under 35 U.S.C. §§ 311–319. Paper 2. Sunflower Licensing LLC (“Patent Owner”) has not yet filed its Preliminary Response.

The Board has not yet decided whether to institute an *inter partes* review of claims 1, 4–9, 11, and 14–19 in the ’005 patent.

On March 2, 2023, after receiving Board authorization, Petitioner and Patent Owner (collectively “parties”) filed a Joint Motion to Dismiss under 35 U.S.C. § 317(a) and 37 C.F.R. § 42.74. Paper 6. As Exhibit 1050, the parties filed a copy of an agreement titled “Confidential Settlement and License Agreement.” Ex. 1050, 1. The parties also filed a Joint Motion to Keep Confidential and Separate under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 7.

II. BACKGROUND

The parties represent that they “have entered into a written confidential agreement that fully resolves this matter.” Paper 6, 1. The parties represent that Exhibit 1050 is “a true and accurate copy of” that agreement. *Id.* The parties also represent that “there are no other agreements, oral or written, between the Parties made in connection with, or in contemplation of, the termination of the present proceeding.” *Id.*

The parties assert that dismissing the Petition will (1) “promote[] the Congressional goal of establishing a more efficient patent system by limiting unnecessary and counterproductive costs” and (2) “provide[] certainty and foster[] an environment that promotes settlements, creating a timely, cost-

effective alternative to litigation.” Paper 6, 2. The parties further assert that dismissal “is appropriate as the Board has not yet ‘decided the merits of the proceeding.’” *Id.* at 2–3 (quoting Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012)). Additionally, the parties contend that the Board “can conserve its resources by dismissing now, removing the need for the Board to further consider the arguments and to render a Final Decision.” *Id.* at 3.

This proceeding has not progressed very far. As noted above, the Board has not yet decided whether to institute an *inter partes* review of claims 1, 4–9, 11, and 14–19 in the ’005 patent. Dismissing the Petition will save the Board administrative and judicial resources, e.g., in conducting an oral argument and issuing a final written decision to decide the patentability issues raised in the Petition. Further, “[t]here are strong public policy reasons to favor settlement between the parties to a proceeding,” and “[t]he Board expects that a proceeding will terminate after the filing of a settlement agreement, unless the Board has already decided the merits of the proceeding.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012).

Under these circumstances, we determine that it is appropriate to dismiss the Petition. We also determine that it is appropriate to treat the parties’ settlement agreement (Exhibit 1050) as business confidential information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

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

III. ORDER

Accordingly, it is

ORDERED that the parties' Joint Motion to Dismiss (Paper 6) is granted;

FURTHER ORDERED that this proceeding is terminated as to the parties; and

FURTHER ORDERED that the parties' Joint Motion to Keep Confidential and Separate (Paper 7) is granted and the parties' settlement agreement (Exhibit 1050) shall be treated as business confidential information and be kept separate from the file of U.S. Patent No. 7,398,005 B2 and made available only under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

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