

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CROWDSTRIKE, INC.,
Petitioner

v.

OPEN TEXT INC.,
Patent Owner.

IPR2022-01522
Patent 10,284,591 B2

Before KRISTINA M. KALAN, MICHELLE N. WORMMEESTER,
and AARON W. MOORE, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

TERMINATION

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

With our authorization, Petitioner and Patent Owner filed a Joint Motion to Terminate. *See* Paper 29.

Petitioner and Patent Owner represent that they “have reached an agreement . . . to resolve their disputes,” that Exhibit 1028 is a “true and correct copy” of the agreement reflecting “a resolution as to all the disputes in this proceeding and as to the ’591 patent,” and that “[n]o other such agreements, written or oral, exist between or among the Parties.” Paper 29, 1–2. In a separate paper, Petitioner and Patent Owner jointly request that the Board treat Exhibit 1028 as business confidential information and keep that exhibit separate from the file of the ’591 patent. *See* Paper 30, 1.

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) further provides that, if no petitioner remains in the *inter partes* review, the Office may terminate the review in its entirety. As the Board has not yet decided the merits of this proceeding, and as Petitioner is the only petitioning entity, we terminate this proceeding.

After reviewing the settlement agreement between Petitioner and Patent Owner, we find that it contains confidential business information regarding the terms of settlement, and we determine that good cause exists to treat the settlement agreement as business confidential information. *See* 35 U.S.C. § 317(b); 37 C.F.R. § 42.74.

We note that Petitioner and Patent Owner also “request that the Board inform us if anyone seeks production of the Agreement and afford the parties an opportunity to address whether such request is supported by good

cause.” Paper 30, 3. The statute, however, does not provide for any such notification or opportunity to respond. *See* 35 U.S.C. § 317(b). Nor does the regulation. *See* 37 C.F.R. § 42.74(c). Moreover, we see no persuasive reason or special circumstance here that would justify issuing an order that imposes these additional requirements. Thus, we deny that part of the joint request by Petitioner and Patent Owner.

Accordingly, it is

ORDERED that Exhibit 1028 be treated as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) and be available only to the Board in the P-TACTS system;

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

FURTHER ORDERED that this proceeding is *terminated*.

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