

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZOOM VIDEO COMMUNICATIONS, INC.,
Petitioner,

v.

CYPH, INC.,
Patent Owner.

IPR2023-00140 (Patent 9,948,625 B2)
IPR2023-00141 (Patent 10,003,465 B2)
IPR2023-00142 (Patent 9,794,070 B2)¹

Before KEN B. BARRETT, JOHN D. HAMANN, and
KRISTIL R. SAWERT, *Administrative Patent Judges*.

BARRETT, *Administrative Patent Judge*.

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

¹ This Decision addresses the same issues for the above-captioned cases. Therefore, we exercise our discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style of heading in any subsequent papers.

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With our authorization, the parties filed, in each of the above-captioned cases, a “Joint Motion to Terminate Proceeding Pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.74.” IPR2023-00140, Paper 6; IPR2023-00141, Paper 6; IPR2023-00142, Paper 6.² The parties assert, in each motion, that:

Petitioner and Patent Owner executed a Confidential Settlement Agreement to resolve all present disputes and to avoid any additional disputes regarding the [challenged] patent.

Accordingly, termination is appropriate because all disputes between the parties regarding the [challenged] patent have been resolved. . . .

The Parties to the underlying litigations (*Cyph, Inc. v. Zoom Video Communications, Inc.*, 4:22-cv-00561 (N.D. Cal)) have agreed to separately request dismissal.

Id. at 1. The parties represent that “[a] true and correct copy of the Confidential Settlement Agreement is submitted therewith.” *Id.* at 2. The parties filed that Settlement Agreement as an exhibit. IPR2023-00140, Ex. 1026; IPR2023-00141, Ex. 1030; IPR2023-00142, Ex. 1041. The parties “certify that there are no other agreements, oral or written, between the parties made in connection with, or in contemplation of, the termination of the proceeding.” *Id.*

In a separate paper, the parties also jointly request that the Settlement Agreement “(1) shall be treated as business confidential information, (2) shall be kept separate from the file of the involved patent, and (3) shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause pursuant to 35 U.S.C. § 317(b)

² The parties filed the substantively same papers in all three cases. Unless otherwise indicated, we refer to the papers filed in IPR2023-00140.

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and 37 C.F.R. § 42.74(c)(1)–(2).” IPR2023-00140, Paper 7;
IPR2023-00141, Paper 7; IPR2023-00142, Paper 7.

The Board has not yet decided whether to institute a trial, and we determine that good cause exists to dismiss the Petitions (IPR2023-00140, Paper 1; IPR2023-00141, Paper 1; IPR2023-00142, Paper 1) and to terminate the preliminary proceedings. *See* 37 C.F.R. § 42.74. After reviewing the Settlement Agreement, 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 id.*

It is

ORDERED that the Joint Motions to Terminate Proceeding Pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.74 are granted;

FURTHER ORDERED that the Petitions (IPR2023-00140, Paper 1; IPR2023-00141, Paper 1; IPR2023-00142, Paper 1) are dismissed and the preliminary proceedings are terminated; and

FURTHER ORDERED that the filed Settlement Agreement (IPR2023-00140, Ex. 1026; IPR2023-00141, Ex. 1030; IPR2023-00142, Ex. 1041) be treated as business confidential information pursuant to 37 C.F.R. § 42.74(c), be kept separate from the file of the involved patent, and also remain designated as available only to “Parties and Board” in the Board’s P-TACTS system.

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