

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UBER TECHNOLOGIES INC.,
Petitioner,

v.

LBT IP II LLC,
Patent Owner.

IPR2023-00223
Patent 8,224,355 B2

Before CHARLES J. BOUDREAU, JOHN A. HUDALLA, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

BOUDREAU, *Administrative Patent Judge*.

DECISION
Dismissal Prior to Institution of Trial
35 U.S.C. § 314

On November 17, 2022, Uber Technologies Inc. (“Petitioner”) filed a Petition requesting *inter partes* review of claim 2 of U.S. Patent No. 8,224,355 B2 (“the ’355 patent”).¹ Paper 1. Pursuant to Petitioner’s request, the Board on January 31, 2023, authorized Petitioner to file an unopposed motion to withdraw the Petition. Petitioner’s “Unopposed Motion to Terminate the Proceeding Pre-institution” (Paper 6, “Mot.” or “Motion”), filed February 6, 2023, is now before us.

In its Motion, Petitioner asserts that underlying litigation between it and Patent Owner LBT IP II LLC has been stayed pending resolution of ongoing *inter partes* review proceedings, and that, in view of the current case status, it no longer seeks to pursue the current proceeding. Mot. 1 (citing *LBT IP II LLC v. Uber Techs. Inc.*, No. 22-CV-03985-WHO, 2023 WL 322894 (N.D. Cal. Jan. 19, 2023)). Petitioner represents that it has not reached any agreements with Patent Owner resolving the related district court case and accordingly has nothing to submit under 35 U.S.C. 317(b) or 37 C.F.R. § 42.74(b). Mot. 2. Petitioner further represents that Patent Owner does not oppose dismissal of the Petition and termination of this proceeding before institution, which, Petitioner contends, “is the relief provided in similar circumstances and would conserve Board resources and promote efficiency.” *Id.* (citing *Unified Patents, LLC v. Motion Offense, LLC*, IPR2020-00705, Paper 14 at 2, 7 (PTAB Sept. 23, 2020)).

Having considered Petitioner’s unopposed Motion, we determine that it is appropriate to dismiss the Petition and terminate the proceeding as to

¹ Petitioner previously filed a petition requesting *inter partes* review of claim 1 of the ’355 patent. IPR2022-00927, Paper 1. In a decision mailed on December 7, 2022, we denied institution of *inter partes* review in that case. *Id.* at Paper 9.

both Petitioner and Patent Owner without rendering either a decision to institute or a final written decision. *See* 37 C.F.R. §§ 42.5(a); 42.71(a) (“The Board . . . may grant, deny, or dismiss any petition or motion.”). This case is in the preliminary proceeding stage. *See id.* § 42.2 (preliminary proceeding begins with the filing of a petition for instituting a trial and ends with a written decision as to whether trial will be instituted). No decision whether to institute a trial has been made. Indeed, as Petitioner points out, Patent Owner has not yet filed a preliminary response, the due date for which is not until March 23, 2023. *See* Mot. 2. Under the circumstances, we agree that dismissal of the Petition and termination of the proceeding at this stage will promote efficiency and avoid incurring unnecessary costs.

Accordingly, we grant Petitioner’s Unopposed Motion to Terminate the Proceeding Pre-institution and dismiss all further proceedings in IPR2023-00223.

In consideration of the foregoing, it is

ORDERED that Petitioner’s Unopposed Motion to Terminate the Proceeding Pre-institution (Paper 6) is granted;

FURTHER ORDERED that the Petition (Paper 1) is dismissed; and

FURTHER ORDERED that IPR2023-00223 is terminated.

IPR2023-00223
Patent 8,224,355 B2

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