

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZHUHAI COSMX BATTERY CO., LTD.,
Petitioner,

v.

MAXELL, LTD.,
Patent Owner.

IPR2023-00226
Patent 9,166,251 B2

Before CHRISTOPHER L. CRUMBLEY, KRISTINA M. KALAN, and
ELIZABETH M. ROESEL, *Administrative Patent Judges*.

KALAN, *Administrative Patent Judge*.

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

I. INTRODUCTION

On March 7, 2023, pursuant to our authorization, Petitioner filed an Unopposed Motion to Dismiss the petition in the above-identified proceeding due to settlement. Paper 6 (“Motion”). Petitioner and Patent Owner (collectively “the Parties”) also filed a copy of a confidential Release Agreement (Ex. 1022 (“Release Agreement”)) governing their settlement, together with a joint request (Paper 7 (“Joint Request”)) that the Release Agreement be treated as business confidential information and kept separate from the publicly available file of the above-captioned proceeding. Together with the Release Agreement, the Parties also filed an Agreement (Ex. 1023) to enter into the Release Agreement, and a Patent Cross License Agreement (Ex. 1024). The Parties requested that these additional agreements also be treated as business confidential information and kept separate from the publicly available file of the above-captioned proceeding. *See* Motion 1; *see also* Joint Request 1.

II. DISCUSSION

In the Motion, Petitioner represents that the “parties settled their underlying dispute and reached agreement to end this IPR in a written agreement.” Motion 1. Petitioner also represents that the filed copy of the Release Agreement is a “true copy of that agreement.” *Id.* Petitioner also represents that the filed copies of the Agreement and the Patent Cross License Agreement are both “true copies,” as per 37 C.F.R. § 42.74(b). *Id.*

This proceeding is at an early stage, and we have not yet decided whether to institute a trial in the proceeding. In view of the early stage of the proceeding and the settlement between the Parties, we determine that it is appropriate to dismiss the petition and terminate the proceeding.

Further, after reviewing the Parties' Release Agreement, Agreement, and Patent Cross License Agreement, we find that these agreements contain confidential business information regarding the terms of settlement. We determine that good cause exists to treat the Release Agreement, the Agreement, and the Patent Cross License Agreement as business confidential information and to keep these agreements separate from the file of the patent in the above-captioned proceeding pursuant to 37 C.F.R. § 42.74(c).

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

III. ORDER

Accordingly, it is:

ORDERED that the Unopposed Motion to Dismiss is *granted*, the petition is *dismissed* and the proceeding is *terminated*;

FURTHER ORDERED that the Joint Request is *granted*; and

FURTHER ORDERED that the Release Agreement, the Agreement, and the Patent Cross License Agreement shall be kept separate from the file of Patent 9,166,251 B2 and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 37 C.F.R. § 42.74(c).

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