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Paper 28
Date: March 27, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DK CROWN HOLDINGS INC.,
Petitioner,

v.

DIOGENES LIMITED,
Patent Owner.

IPR2023-00262 (Patent 9,117,341 B2)
IPR2023-00266 (Patent 10,970,969 B2)
IPR2023-00267 (Patent 10,997,822 B2)

Before WILLIAM V. SAINDON, HYUN J. JUNG, ROBERT L. KINDER, and SEAN P. O'HANLON, *Administrative Patent Judges*.[1]

PER CURIAM.

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

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[1] This listing of Administrative Patent Judges does not represent an expanded panel in any of the above-identified proceedings.

I. INTRODUCTION

With the Board's authorization, Petitioner and Patent Owner (collectively referred to as "the Parties") filed a Joint Motion to Terminate *Inter Partes* Review in each of the above-identified proceedings due to settlement. Paper 28[2] ("Joint Motion"). In support of the Joint Motions, the Parties filed a copy of a Settlement Agreement (Ex. 1070) in each proceeding, as well as a Joint Motion to Keep Confidential and Separate (Paper 29 ("Joint Request")).

II. DISCUSSION

In the Joint Motions, the Parties represent that they have resolved their disputes regarding the patents involved in the above-identified proceedings. Paper 28. The Parties further represent that the copy of the Settlement Agreement filed in each proceeding is "a true copy" and that "[t]here are no other agreements, written or oral, between the Parties made in connection with, or in contemplation of, the termination of" each proceeding. *Id.*

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 35 U.S.C. § 317(a) also provides that if no petitioner remains in the *inter partes* review, the Office may terminate the review.

[2] For expediency, we cite to papers in IPR2023-00262. Similar papers were filed in IPR2023-00266 and IPR2023-00267.

We instituted trials in the above-identified proceedings. Paper 10. We have not yet decided the merits of the proceedings, and final written decisions have not been entered. Notwithstanding that the proceedings have moved beyond the preliminary stage, the Parties have adequately shown that termination of the proceedings is appropriate. Under these circumstances, we determine that good cause exists to terminate the proceedings with respect to the Parties.

In the Joint Requests, the Parties request that the Settlement Agreement be treated as business confidential information and be kept separate from the files of the patents involved in the above-identified proceedings. Paper 29. After reviewing the Settlement Agreement between Petitioner and Patent Owner, we find that the Settlement Agreement contains confidential business information regarding the terms of settlement. We determine that good cause exists to treat the Settlement Agreement between Petitioner and Patent Owner as business confidential information pursuant to 35 U.S.C. § 317(b) and 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, for the reasons discussed above, it is:

ORDERED that the Joint Motions are *granted*, and IPR2023-00262, IPR2023-00266, and IPR2023-00267 are *terminated* with respect to Petitioner and Patent Owner pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72; and

FURTHER ORDERED that the Joint Requests are *granted*, and the Settlement Agreement shall remain confidential and be kept separate from the files of Patents 9,117,341 B2, 10,970,969 B2, and 10,997,822 B2, and 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) and 37 C.F.R. § 42.74(c).

IPR2023-00262 (Patent 9,117,341 B2)
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