

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner,

v.

LS CLOUD STORAGE TECHNOLOGIES, LLC,
Patent Owner.

Case IPR2023-00622
Patent 6,549,988 B1

Before NEIL T. POWELL, ARTHUR M. PESLAK, and
KRISTI L. R. SAWERT, *Administrative Patent Judges*.

SAWERT, *Administrative Patent Judge*.

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

I. INTRODUCTION

With the Board’s authorization, Microsoft Corporation (“Petitioner”) and LS Cloud Storage Technologies, LLC (“Patent Owner”) filed a Joint Motion to Terminate Proceeding in the above-identified *inter partes* review proceeding. Paper 7 (“Joint Motion”). In support of the Joint Motion, Petitioner and Patent Owner filed a copy of a Confidential Settlement Agreement (Ex. 1019, “the Settlement Agreement”) and a Joint Request to Treat the Parties’ Settlement Agreement as Business Confidential Information and Be Kept Separate, (Paper 8, “Joint Request”).

II. DISCUSSION

In the Joint Motion, Petitioner and Patent Owner represent that they have reached an agreement to jointly seek termination of the above-identified *inter partes* review proceeding, and that the filed copy of the Settlement Agreement is a true copy. Paper 7, 1; *see also* 37 C.F.R. § 42.74(b) (requiring a “true copy” of any agreement to be filed with the Board). Petitioner and Patent Owner also represent that “[t]here are no other agreements, oral or written, between the parties made in connection with, or in contemplation of, the termination of the proceedings.” Paper 7, 1; *see also* 37 C.F.R. § 42.74(b) (requiring “[a]ny agreement or understanding between the parties” to be filed with the Board (emphasis added)). The Settlement Agreement and Joint Motion indicate that all currently pending disputes between Petitioner and Patent Owner involving the above-identified patent at issue have been settled. Paper 7, 1–2; Ex. 1019, 1.

These proceedings are at an early stage, and we have not yet decided whether to institute trial. In view of the early stage of the proceeding and

the settlement between Petitioner and Patent Owner, which resolves all proceedings involving them and the above-identified patent, we determine that good cause exists to terminate the proceeding.

The parties' Joint Request asks that the Settlement Agreement be treated as business confidential information, be kept separate from the files of the patent involved in this *inter partes* review proceeding, and not be made available except to Federal Government agencies on written request or to others only on a showing of good cause. Paper 8, 1. 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 37 C.F.R. § 42.74(c).

The parties also request "that they be notified if and when the Board receives and/or considers a request for access to Confidential Exhibit 1019 and be offered an opportunity to respond." Paper 8, 1. Because there is currently no mechanism at the Board to provide notification to the parties outside the Board's Patent Trial and Appeal Case Tracking System (P-TACTS) system and because a request for response is premature, this request is denied. Nevertheless, the Settlement Agreement will remain accessible in P-TACTS to the "Parties and Board" only 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, for the reasons discussed above, it is:

ORDERED that the Joint Motion to Terminate Proceeding is *granted*, and the proceeding is *terminated*; and

FURTHER ORDERED that the Joint Request to Treat the Parties' Settlement Agreement as Business Confidential Information and Be Kept Separate is *granted*, and the Confidential Settlement Agreement (Ex. 1019) shall be kept separate from the file of U.S. Patent 6,549,988 B1, shall also remain designated as available only to the "Parties and Board" in the P-TACTS system, and shall be 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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