

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

TOGAIL TECHNOLOGIES LTD.,
Patent Owner.

IPR2023-00644 (Patent 11,115,165 B2)
IPR2023-00645 (Patent 10,743,238 B2)
IPR2023-00721 (Patent 10,972,972 B2)¹

Before JAMESON LEE, GREGG I. ANDERSON, and
SHEILA F. McSHANE, *Administrative Patent Judges*.

McSHANE, *Administrative Patent Judge*.

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

¹ This Order addresses issues that are the same in all the proceedings.

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With the Board’s authorization, Petitioner and Patent Owner filed, in each of the captioned proceedings, a Joint Motion to Terminate and a Joint Request to Keep Agreement Confidential. Papers 8, 9.² The parties also filed the confidential agreement in the respective cases (IPR2023-00644, Ex. 1021; IPR2023-00645, Ex. 1144; IPR2023-00721, Ex. 1025).

The parties represent that they have settled their disputes in these proceedings and in the related district-court litigations and they filed true copies of their agreement in its entirety. Paper 8, 2–3. The parties also represent that there are no other agreements between them made in connection with or in contemplation of the termination of these proceedings. *Id.* at 2. According to the parties, the agreements that they filed contain confidential information under the Board’s rules. Paper 9, 2.

The parties assert that these proceedings should be terminated because the parties settled all pending disputes concerning the patents at issue and the Board has not yet decided the merits of the proceedings. *See* Paper 8, 4. We agree that termination is appropriate for all those reasons. *See* Consolidated Trial Practice Guide, 86 (Nov. 2019) (“The Board expects that a proceeding will terminate after the filing of a settlement agreement, unless the Board has already decided the merits of the proceeding.”).³

² Similar motions were filed in all the proceedings. *See* IPR2023-00645, Paper 9 (Joint Motion to Terminate), Paper 10 (Joint Request to Keep Agreement Confidential); IPR2023-00721, Paper 9 (Joint Motion To Terminate), Paper 10 (Joint Request to Keep Agreement Confidential). Citations in this order are to the papers in IPR2023-00644.

³ *Available at* <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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The parties also request that the settlement agreement between the parties be treated as business confidential information. Paper 9, 2. We agree that the agreement filed in each proceeding contains confidential information under the Board's rules, so, accordingly, we grant-in-part the request that the agreement should be treated as business confidential information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). *See* IPR2023-00644, Ex. 1021; IPR2023-00645, Ex. 1144; IPR2023-00721, Ex. 1025. The Joint Requests also request that if a person or entity makes a written request for access to confidential documents, the parties should be served the written request and be given the opportunity to respond to the request. Paper 9, 2. The panel does not have a procedure, nor authority, to have served upon the Parties a request for access to the Settlement Agreements. So we deny-in-part that portion of request.

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

ORDER

It is

ORDERED that the parties' Joint Motions to Terminate the Proceedings (IPR2023-00644, Paper 8; IPR2023-00645, Paper 9; IPR2023-00721, Paper 9) are *granted*;

FURTHER ORDERED that the parties' Joint Requests to Keep Agreement Confidential (IPR2023-00644, Paper 9; IPR2023-00645, Paper 10; IPR2023-00721, Paper 10) are *granted-in-part* and *denied-in-part*, as explained above, and the parties' confidential agreement (IPR2023-00644,

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Ex. 1021; IPR2023-00645, Ex. 1144; IPR2023-00721, Ex. 1025) shall be treated as business confidential information and be kept separate from the files of the challenged patents and made available only under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c); and

FURTHER ORDERED that these proceedings are terminated.

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PETITIONER:

Scott Jarratt
Andrew Ehmke
Samuel Drezdzon
Clint Wilkins
HAYNES AND BOONE, LLP
scott.jarratt.ipr@haynesboone.com
andy.ehmke.ipr@haynesboone.com
samuel.drezdzon.ipr@haynesboone.com
clint.wilkins.ipr@haynesboone.com

PATENT OWNER:

Brett Cooper
BC LAW GROUP, P.C.
bcooper@bc-lawgroup.com

Robert Auchter
AUCHTER PLLC
robert@auchterlaw.com