

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FORTINET, INC.,
Petitioner,

v.

LIONRA TECHNOLOGIES LTD.,
Patent Owner.

IPR2023-00673 (Patent 7,685,436 B2)
IPR2023-00703 (Patent 8,566,612 B2)
IPR2024-00099 (Patent 7,685,436 B2)
IPR2024-00158 (Patent 8,566,612 B2)

Before WILLIAM V. SAINDON, PATRICK R. SCANLON, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

SAINDON, *Administrative Patent Judge*.

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

ORDER
*Granting Joint Request to Treat Settlement Agreement as Business
Confidential information
37 C.F.R. § 42.74*

IPR2023-00673 (Patent 7,685,436 B2)
IPR2023-00703 (Patent 8,566,612 B2)
IPR2024-00099 (Patent 7,685,436 B2)
IPR2024-00158 (Patent 8,566,612 B2)

Petitioner Fortinet, Inc. (“Fortinet”) and Patent Owner (Lionra Technologies, Ltd.) have indicated that they have reached an agreement to settle each of the above-identified *inter partes* review proceedings.¹ The Board authorized Fortinet and Patent Owner to file joint motions to terminate Fortinet from the proceedings on September 23, 2024.

On October 1, 2024, pursuant to 37 C.F.R. § 42.72 and 35 U.S.C. § 317, Fortinet and Patent Owner filed joint motions to terminate Fortinet from each of the above-identified proceedings (collectively “Joint Motions”) (Paper 33²) and joint requests (collectively “Joint Requests”) (Paper 34³) to treat a confidential Settlement Agreement (“Agreement”) as business confidential information and to keep the Agreement separate from the files of the involved patents, along with copies of the confidential Agreement

¹ The Board joined Palo Alto Networks, Inc. and Fortinet, Inc. as parties (Petitioner) to IPR2023-00673 and IPR2023-00703 via Motions for Joinder in IPR2024-00099 and IPR2024-00158, respectively. Cisco Systems, Inc., an original Petitioner to IPR2023-00673 and IPR2023-00703, was terminated from those proceedings due to settlement on July 8, 2024. *See* IPR2023-00673, Paper 29; IPR2023-00703, Paper 28. Palo Alto Networks, Inc. was terminated from IPR2023-00673, IPR2023-00703, IPR2024-00099, and IPR2024-00158 due to settlement on October 1, 2024. *See* IPR2023-00673, Paper 36; IPR2023-00703, Paper 36; IPR2024-00099, Paper 16; IPR2024-00158, Paper 16.

² For purposes of expediency, we cite to Papers filed in IPR2023-00673. Fortinet and Patent Owner submitted similar Joint Motions in IPR2023-00703 (Paper 34), IPR2024-00099 (Paper 14), and IPR2024-00158 (Paper 14).

³ Fortinet and Patent Owner submitted similar Joint Requests regarding the Agreement in IPR2023-00703 (Paper 33), IPR2024-00099 (Paper 15), and IPR2024-00158 (Paper 15).

IPR2023-00673 (Patent 7,685,436 B2)
IPR2023-00703 (Patent 8,566,612 B2)
IPR2024-00099 (Patent 7,685,436 B2)
IPR2024-00158 (Patent 8,566,612 B2)

(Ex. 1021⁴) as accessible to the Board only. Fortinet and Patent Owner describe the filed copies of the confidential Agreement as “a true copy.” Joint Motions at 5. Fortinet and Patent Owner represent that “[t]he settlement agreement is in writing and constitutes [Fortinet’s and Patent Owner’s] entire understanding and agreement.” *Id.* Fortinet and Patent Owner further represent that the Agreement “fully resolves all disputes relating to U.S. Patent No. 7,685,436 and U.S. Patent No. 8,566,612 before the district court and the Patent Trial and Appeal Board.” Joint Requests at 2.

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.

The above-identified proceedings are at an intermediate stage. Final written decisions have not been entered in these proceedings. Furthermore, public policy favors settlement, and the Board generally expects that a proceeding will terminate after the filing of a settlement agreement unless the Board has already decided the merits of the proceeding. *Patent Trial and Appeal Board Consolidated Trial Practice Guide*, 84 Fed. Reg. 64,280 (Nov. 21, 2019). Under these circumstances, and in view of Fortinet’s and

⁴ Fortinet and Patent Owner also submitted copies of the confidential Agreement in IPR2023-00703 (Ex. 1021), IPR2024-00099 (Ex. 1021), and IPR2024-00158 (Ex. 1021).

IPR2023-00673 (Patent 7,685,436 B2)
IPR2023-00703 (Patent 8,566,612 B2)
IPR2024-00099 (Patent 7,685,436 B2)
IPR2024-00158 (Patent 8,566,612 B2)

Patent Owner's settlement and representations, we determine that terminating these proceedings will conserve the Board's and the parties' resources. Accordingly, we *grant* the Joint Motions and terminate the above-identified proceedings.

Fortinet and Patent Owner also request to file the Agreement, "as business confidential information, and that it be kept separate from the file of the involved patents (U.S. Patent Nos. 7,685,436 and 8,566,612)." Joint Requests at 2. After reviewing the Agreement between Patent Owner and Fortinet, Inc., we find that the Agreement contains confidential business information regarding the terms of settlement. We determine that it is appropriate to treat the Agreement as business confidential information and keep it separate from the file of U.S. Patent Nos. 7,685,436 and 8,566,612. *See* 37 C.F.R. § 42.74(c).

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

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Joint Motions (IPR2023-00673, Paper 33; IPR2023-00703, Paper 34; IPR2024-00099, Paper 14; IPR2024-00158, Paper 14) to terminate Petitioner Fortinet, Inc. from the above-identified proceedings are *granted*;

FURTHER ORDERED that the Joint Requests (IPR2023-00673, Paper 34; IPR2023-00703, Paper 33; IPR2024-00099, Paper 15; IPR2024-00158, Paper 15) are *granted*, and the Agreements (IPR2023-00673, Ex. 1021; IPR2023-00703, Ex. 1021; IPR2024-00099, Ex. 1021; IPR2024-

IPR2023-00673 (Patent 7,685,436 B2)
IPR2023-00703 (Patent 8,566,612 B2)
IPR2024-00099 (Patent 7,685,436 B2)
IPR2024-00158 (Patent 8,566,612 B2)

00158, Ex. 1021) shall be treated as business confidential information, shall be kept separate from the files of the involved patents (U.S. Patent No. 7,685,436 and U.S. Patent No. 8,566,612), and shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause on written request, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c); and

FURTHER ORDERED that IPR2023-00673, IPR2023-00703, IPR2024-00099, and IPR2024-00158 are *terminated* with respect to Petitioner and Patent Owner.

IPR2023-00673 (Patent 7,685,436 B2)
IPR2023-00703 (Patent 8,566,612 B2)
IPR2024-00099 (Patent 7,685,436 B2)
IPR2024-00158 (Patent 8,566,612 B2)

FOR PETITIONER:

Patrick McPherson
Patrick Muldoon
Paul Belnap
Donald English
Nicole Candelori
DUANE MORRIS LLP
pdmcpherson@duanemorris.com
pcmuldoon@duanemorris.com
phbelnap@duanemorris.com
djenglish@duanemorris.com
ncandelori@duanemorris.com

Eric Buresh
Mark Lang
ERISE IP, P.A.
eric.buresh@eriseip.com
mark.lang@eriseip.com

FOR PATENT OWNER:

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

Robert A. Auchter
AUCHTER PLLC
robert@auchterlaw.com