

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SPLAT-R-BALL, LLC, DAISY MANUFACTURING COMPANY, AND
S-BEAM PRECISION PRODUCTS LTD.,
Petitioner,

v.

SPIN MASTER, INC.,
Patent Owner.

IPR2023-00772
Patent 8,371,282 B2

Before HYUN J. JUNG, NEIL T. POWELL, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

POWELL, *Administrative Patent Judge*.

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

I. INTRODUCTION

On May 18, 2023, Petitioner and Patent Owner (collectively “the Parties”) filed a Joint Motion to Terminate the above-identified proceeding. Paper 9 (“Joint Motion”).¹ In support of the Joint Motion, the Parties also filed Exhibits 1071 and 1072. Each of Exhibits 1071 and 1072 is a copy of a settlement agreement between Patent Owner and one or more of the entities that compose Petitioner. Ex. 1071, 1; Ex. 1072, 1. Collectively, Exhibits 1071 and 1072 set forth settlement terms between Patent Owner and all of the entities that compose Petitioner. Ex. 1071, 1; Ex. 1072, 1. The Parties refer to Exhibits 1071 and 1072, collectively, as their “Settlement Agreement,” and we do the same. *See* Paper 9, 2. With authorization from the Board, the Parties filed on June 6, 2023, a Joint Request to File Settlement Agreement as Business Confidential Information. Paper 10 (“Joint Request”).

II. DISCUSSION

In the Joint Motion, the Parties represent that they have agreed to resolve their disputes, and that the filed copy of the Settlement Agreement is a true and complete copy. Joint Motion 2. The Parties further represent that their Settlement Agreement resolves all pending disputes between the Parties involving the above-identified patent at issue. *Id.* at 3.

¹ The Parties failed to seek authorization to file the Joint Motion, as required by our rules. *See* 37 C.F.R. § 42.20(b). In this instance, given that termination of this proceeding based on settlement comports with our mandate to ensure “the just, speedy, and inexpensive resolution of every proceeding,” 37 C.F.R. § 42.1(b), we exercise our discretion under 37 C.F.R. § 42.5(b) to waive the preauthorization requirement for the Joint Motion. Going forward, in any other proceedings before the Board, the Parties and their counsel are admonished to make all reasonable efforts to comply with Rule 42.20(b).

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 terminate the proceeding.

Further, after reviewing the Parties' Settlement Agreement, 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 as business confidential information and to keep the Settlement Agreement in Exhibits 1071 and 1072 separate from the file of the subject patent in the above-captioned proceeding pursuant to 37 C.F.R. § 42.74(c), and therefore grant the Joint Request.

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

III. ORDER

ORDERED that the Joint Motion to Terminate IPR2023-00772 is *granted*, and the proceeding is *terminated*;

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

FURTHER ORDERED that the Settlement Agreement in Exhibits 1071 and 1072 shall be kept separate from the file of Patent 8,371,282 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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