Trials@uspto.gov
571-272-7822

Paper 11
Entered: March 4, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DJI EUROPE B.V.,
Petitioner,

v.

TEXTRON INNOVATIONS INC.,
Patent Owner.

IPR2023-01104 (Patent 8,682,505 B2)
IPR2023-01105 (Patent 8,332,082 B2)
IPR2023-01227 (Patent 11,288,972 B2)

Before MICHAEL R. ZECHER, SCOTT A. DANIELS and NATHAN ENGELS, *Administrative Patent Judges.*

DANIELS, *Administrative Patent Judge*.

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

I. DISCUSSION

With our authorization, Petitioner, DJI Europe B.V., and Patent Owner, Textron Innovations Inc., jointly filed in each of the three above captioned cases: (1) a "Joint Motion to Terminate Pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.72" (Paper 8, "Mot." or "Joint Motions"); (2) a true copy of the parties' confidential settlement agreement (Ex. 1026); and (3) a "Joint Request to File Settlement Agreement as Business Confidential Information Pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c)" (Paper 9, "Joint Requests").[1] For the following reasons, we *grant* the parties' Joint Motions to terminate these IPRs, as well as the parties' respective Joint Requests to file their settlement agreement as business confidential information and keep separate from the files of the involved patents.

On February 22, 2024, the parties explained in a joint email to the Board that "[a]ll disputes between Petitioner and Patent Owner related to U.S. Patent 8,682,505, U.S. Patent 8,332,082, and U.S. Patent 11,288,972 have been resolved by settlement." Ex. 3001. In their email, the parties requested authorization to file motions to terminate the above-referenced IPRs and joint requests to treat their settlement agreement as business confidential information. *Id.* On the same day, the Board granted the parties authorization to file in each proceeding, (1) a joint motion to terminate in each proceeding; and (2) to file a joint request to treat the settlement agreement as business confidential information. *Id.*

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[1] For ease of reference, and unless otherwise noted, we refer in this Combined Order to the paper and exhibit numbers in IPR2023-01104.

The Board has not entered an institution decision in any of the above captioned cases. Therefore, the proceedings are still in early stages because the parties have not completed substantive briefing and we have not yet decided on institution or the merits.

In the Joint Motions to terminate these IPRs, the parties state that "[they] they have reached an agreement that resolves all disputes between the parties involving U.S. Patent No. 8,682,505, [U.S. Patent No. 8,332,082, and U.S. Patent No. 11,288,972]." Mot. 2. The parties represent that there is a related district court case in the U.S. District Court for the Eastern District of Texas where "a Joint Stipulation of Dismissal with Prejudice has been filed," and "the '505 Patent [the '082 Patent, and the '972 Patent are] not involved in any other pending litigation." *Id.* at 3. Lastly, the parties represent that Exhibit 1026 "is a true and accurate copy of the agreement between the parties" and constitutes "the entire agreement or understanding between the parties made in connection with, or in contemplation of, the termination of th[ese] proceeding[s]." Paper 9, 1.

Under these particular circumstances, we determine that it is appropriate to dismiss the Petitions, without rendering institution decisions. *See* 37 C.F.R. § 42.71(a). We also have reviewed the true copy of the parties' settlement agreement (Ex. 1026), and we determine that good cause exists to treat this settlement agreement as business confidential information and keep it separate from the files of the '505 patent, the '082 patent, and the '972 patent. *See* 35 U.S.C. § 317(b); 37 C.F.R. § 42.74(c).

II. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the parties' Joint Requests to file their settlement agreement as business confidential information and keep separate from the files of the '505 patent, the '082 patent, and the '972 patent are *granted*;

FURTHER ORDERED that Exhibit 1026 (IPR2023-01104), Exhibit 1030 (IPR2023-01105), and Exhibit 1034 (IPR2023-01227) shall remain business confidential information, and shall be kept separate from the files of the '505 patent, the '082 patent, and the '972 patent; and

FURTHER ORDERED that the parties' Joint Motions to terminate these IPRs are *granted*, and the Petitions are dismissed resulting in termination of these proceedings.

For PETITIONER:

Lori Gordon
Zane Bi
PERKINS COIE LLP
Gordon-ptab@perkinscoie.com
Bi-ptab@perkinscoie.com

PATENT OWNER:

Brian Oaks
McDERMOTT WILL & EMERY
boaks@mwe.com

Morgan Mayne
Jeffery Becker
Clarke Stavinoha
BAKER BOTTS L.L.P.
Morgan.mayne@bakerbotts.com
Jeff.becker@bakerbotts.com
Clarke.stavinoha@bakerbotts.com