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Paper 9
Entered: December 4, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CROWDSTRIKE, INC.,
Petitioner,

v.

OPEN TEXT INC.,
Patent Owner.

IPR2023-01050 (Patent 8,763,123 B2)
IPR2023-01051 (Patent 8,719,932 B2)
IPR2023-01052 (Patent 8,201,243 B2)
IPR2023-01053 (Patent 11,409,869 B2)
IPR2023-01158 (Patent 8,181,244 B2)
IPR2023-01159 (Patent 8,856,505 B2)[1]

Before JUSTIN T. ARBES, BARBARA A. PARVIS, KRISTINA M. KALAN, MICHELLE N. WORMMEESTER, GARTH D. BAER, and SCOTT RAEVSKY, *Administrative Patent Judges*.[2]

WORMMEESTER, *Administrative Patent Judge*.

[1] This Order applies to each of the above-identified proceedings. We exercise our discretion to issue one order to be filed in each case. The parties are not authorized to use this style heading in any subsequent papers.
[2] This is not an expanded panel. The panel in IPR2023-01050 is Judges Kalan, Wormmeester, and Raevsky. The panel in IPR2023-01051 and IPR2023-01052 is Judges Arbes, Parvis, and Raevsky. The panel in IPR2023-01053 is Judges Arbes, Parvis, and Baer. The panel in IPR2023-01158 and IPR2023-01159 is Judges Arbes, Wormmeester, and Raevsky.

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

I. INTRODUCTION

In each of the above-identified proceedings, Petitioner filed a Petition (Paper 1[3]) requesting *inter partes* review. Subsequently, Petitioner and Patent Owner (collectively, "the parties") filed a joint motion to terminate each proceeding pursuant to a settlement agreement. Paper 6 ("Joint Motion to Terminate"). The parties also filed a copy of their settlement agreement made in connection with the termination of the proceedings. Ex. 1020. In a concurrently filed paper, the parties jointly request the settlement agreement to be treated as business confidential and to be kept separate from the file of the involved patent under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 7 ("Joint Request to Keep Confidential and Separate"). We authorized the filing of the jointly-filed papers in an e-mail dated November 13, 2023. Ex. 3001.

II. DISCUSSION

Each of the proceedings is in an early stage, and the Board has not determined whether to institute trial. In each proceeding, the parties represent that their settlement agreement "resolves all disputes between the

[3] We cite to papers and exhibits filed in IPR2023-01050. Similar papers and exhibits were filed in IPR2023-01051, IPR2023-01052, IPR2023-01053, IPR2023-01158, and IPR2023-01159.

Parties concerning the Challenged Patent," and that Exhibit 1020 is a "true," "correct," and "complete" copy of their settlement agreement. Paper 6, 1, 4; Paper 7, 1. The parties further represent that "[n]o other such agreements, written or oral, exist between or among the Parties." Paper 6, 2. In view of the foregoing, we determine that it is appropriate to dismiss each petition and terminate each 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 it separate from the file of the patent in each of the above-identified proceedings pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

We note the parties' additional "request that the Board inform us if anyone seeks production of the Agreement and afford the parties an opportunity to address whether such request is supported by good cause." Paper 7, 2. The statute, however, does not provide for any such notification or opportunity to respond. *See* 35 U.S.C. § 317(b). Nor does the regulation. *See* 37 C.F.R. § 42.74(c). Also, we see no persuasive reason or special circumstance here that would justify issuing an order that imposes these additional requirements. Thus, we deny that part of the parties' joint request.

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

III. ORDER

Accordingly, it is:

ORDERED that, in each of the above-identified proceedings, the Joint Motion to Terminate (Paper 6) is *granted*, and the Petition (Paper 1) is *dismissed*;

FURTHER ORDERED that, in each of the proceedings, the Joint Request to Keep Confidential and Separate (Paper 7) is *granted-in-part*, and the settlement agreement (Ex. 1020) shall be treated as business confidential information, kept separate from the file of the above-identified patent, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c); and

FURTHER ORDERED that each of the proceedings is *terminated*.

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