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Paper No. 9
Date: February 28, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TREND MICRO, INC.,
Petitioner,

v.

OPEN TEXT INC.,
Patent Owner.

IPR2023-01380 (Patent 11,409,869 B2)
IPR2023-01389 (Patent 8,856,505 B2)
IPR2023-01392 (Patent 8,181,244 B2)
IPR2024-00106 (Patent 8,418,250 B2)[1]

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

PER CURIAM.

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

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[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 IPR2023-001380 is Judges Arbes, Parvis, and Baer. The panel in IPR2023-01389 and IPR2023-01392 is Judges Arbes, Wormmeester, and Raevsky. The panel in IPR2024-00106 is Judges Wormmeester, Moore, and Raevsky.

I. INTRODUCTION

In each of the above-identified proceedings, Petitioner filed a Petition (Paper 2[3]) requesting *inter partes* review. Subsequently, Petitioner and Patent Owner (collectively, "the parties") filed an authorized joint motion to terminate each proceeding pursuant to a settlement agreement. Paper 7 ("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 that the settlement agreement be treated as business confidential and be kept separate from the file in the involved patent under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 8 ("Joint Request to Keep Confidential and Separate").

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 they have "reached a resolution as to all the disputes in this proceeding and as to the [challenged] Patent," and that Exhibit 1020 is "a true and correct copy" of their settlement agreement. Paper 7, 2; Paper 8, 1. The parties further represent "that there are no other agreements, oral or written, between the Parties made in connection with, or in contemplation of, the termination of this proceeding." Paper 7, 3. In view of the foregoing,

[3] We cite to papers and exhibits filed in IPR2023-01380. Similar papers and exhibits were filed in IPR2023-01389, IPR2023-01392, and IPR2024-00106 and those papers and exhibits are listed in the Appendix.

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).

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 7) is *granted*, and the Petition (Paper 2) is *dismissed*;

FURTHER ORDERED that, in each of the proceedings, the Joint Request to Keep Confidential and Separate (Paper 8) is *granted*, 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 37 C.F.R. § 42.74(c); and

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

APPENDIX

IPR	Petition	Motion to Terminate	Joint Request to Keep Confidential and Separate	Settlement Agreement
IPR2023-01380	Paper 2	Paper 7	Paper 8	Ex. 1020
IPR2023-01389	Paper 2	Paper 9	Paper 8	Ex. 1016
IPR2023-01392	Paper 2	Paper 11	Paper 10	Ex. 1022
IPR2024-00106	Paper 2	Paper 10	Paper 9	Ex. 1017

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IPR2023-01389 (Patent 8,856,505 B2)
IPR2023-01392 (Patent 8,181,244 B2)
IPR2024-00106 (Patent 8,418,250 B2)

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