

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZENDRIVE, INC.
Petitioner,

v.

CAMBRIDGE MOBILE TELEMATICS, INC.
Patent Owner.

IPR2023-01440
Patent 10,672,249 B1

Before KARL D. EASTHOM, MICHAEL J. STRAUSS, and
BRIAN J. McNAMARA, *Administrative Patent Judges*.

STRAUSS, *Administrative Patent Judge*.

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

I. INTRODUCTION

On December 22, 2023, with Board authorization (Ex. 3001), the parties filed a Joint Motion to Terminate Proceeding in the above-identified proceeding due to settlement. Paper 6 (“Joint Termination Motion”). The parties also filed settlement documents (“Settlement Agreement”). Ex. 1021. The parties also filed a Joint Request that the Settlement Agreement be Treated as Business Confidential Information Pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74. Paper 7 (“Joint Request”).

II. DISCUSSION

The parties’ Joint Motion to Terminate states that “[t]he parties are filing, concurrently with the present motion, a true and complete copy of their written Settlement and License Agreement (‘Settlement Agreement’)” Paper 6, 1. In addition, “[t]he parties further jointly certify that there are no other agreements or understandings, oral or written, between Patent Owner and Petitioner, including any collateral agreements, made in connection with, or in contemplation of, the termination of the present proceeding as set forth in 35 U.S.C. § 317(b).” *Id.*

The parties further request the Settlement Agreement be treated as Business Confidential Information pursuant to 37 C.F.R. § 42.74(c). Joint Request 1. In addition, the parties “request that the Board order that any written request by a person or entity, as stated in 37 C.F.R. § 42.74(c)(1)–(2), for access to the Settlement Agreement, must simultaneously be served upon Petitioner and Patent Owner on the day the written request is provided to the Board.” *Id.* In the alternative, the parties request to be notified “that the Board has received a request for access to the Settlement Agreement and, if requested pursuant to 37 C.F.R. § 42.74(c)(2), of the nature of the

requester's attempt to demonstrate 'good cause,' so that they may, as appropriate, seek to take further steps for continued confidentiality." *Id.* at 1–2.

This proceeding is at an early stage, prior to any decision as to 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 dismiss the Petition and terminate the proceeding.

Further, after reviewing the parties' Settlement Agreement, we find that they contain 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 them separate from the file of the patent in the above-captioned proceeding pursuant to 37 C.F.R. § 42.74(c). However, the Board does not grant the request for requiring simultaneous service to the parties by a person or entity providing a written request to access the Agreement or notice of such written request because 37 C.F.R. § 42.74(c)(2) only requires a showing of good cause. This Decision is not a final written decision under 35 U.S.C. § 318(a).

III. ORDER

Accordingly, it is

ORDERED that the Joint Termination Motion to terminate the above-identified proceeding is *granted*, the petition is *dismissed*, and the proceeding is *terminated*;

FURTHER ORDERED that the parties' request for service by persons or entities seeking to access the Settlement Agreement or notice by the Board concerning such access is *denied*; and,

FURTHER ORDERED that the Joint Request is *granted* and the Settlement Agreement shall be kept separate from the file of the above-captioned proceeding and 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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