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Paper 10
Date: March 19, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HOME DEPOT USA, INC. and HOME DEPOT SOLUTIONS LLC,
Petitioner,

v.

INNOVAPORT, LLC,
Patent Owner.

IPR2024-00011 (Patent 9,990,670 B1)
IPR2024-00012 (Patent 8,787,933 B1)
IPR2024-00022 (Patent 9,489,690 B1)
IPR2024-00096 (Patent 8,775,260 B1)[1]

Before BART A. GERSTENBLITH, SEAN P. O'HANLON, and BRENT M. DOUGAL, *Administrative Patent Judges*.

O'HANLON, *Administrative Patent Judge*.

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 listed proceedings. The parties are not authorized to use this caption for any subsequent papers absent prior authorization from the Board.

I. INTRODUCTION

On March 14, 2024, with Board authorization, Petitioner and Patent Owner filed a joint motion to terminate in each of the above-captioned proceedings. Paper 8 ("Motion").[2] Along with each motion, the parties filed a copy of a Confidential Settlement Agreement (Ex. 1033), as well as a joint request to treat the Confidential Settlement Agreement as business confidential information (Paper 9, "Request") in each proceeding. *See* 37 C.F.R. § 42.74(c) ("A party to a settlement may request that the settlement be treated as business confidential information and be kept separate from the files of an involved patent or application.").

II. DISCUSSION

The Board generally expects that "a proceeding will terminate after the filing of a settlement agreement, unless the Board has already decided the merits of the proceeding." Patent Trial and Appeal Board Consolidated Trial Practice Guide 86 (Nov. 2019).[3] In these proceedings, we have not issued decisions on institution, and the parties represent that they "have entered into a written confidential settlement agreement that fully resolves th[ese] matter[s]," and "jointly request termination" of these proceedings. Motion 1–2. Under the circumstances, we determine that it is appropriate to terminate the proceedings.

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[2] Citations herein refer to documents filed in IPR2024-00011. Similar documents were filed in the other proceedings.

[3] *Available at* https://www.uspto.gov/TrialPracticeGuideConsolidated.

The parties also ask that the Confidential Settlement Agreement be treated as business confidential information and be kept separate from the files of the challenged patents. Request 1. The parties represent that the Confidential Settlement Agreement "is the entire agreement or understanding between the Parties made in connection with, or in contemplation of, the termination[s] of th[ese] proceeding[s]" and that "Exhibit 1033 is a true and accurate copy of the agreement between the Parties that resolves the present proceeding[s]." *Id.* We have reviewed the Confidential Settlement Agreement between Petitioner and Patent Owner. Because the Settlement Agreement contains business confidential information about the settlement terms, it is appropriate to treat the Confidential Settlement Agreement as business confidential information under 37 C.F.R. § 42.74(c).

III. ORDER

Accordingly, it is:

ORDERED that each Joint Motion to Terminate (IPR2024-00011, Paper 8; IPR2024-00012, Paper 6; IPR2024-00022, Paper 8; IPR2024-00096, Paper 7) is *granted*;

FURTHER ORDERED that each Joint Request to treat the Confidential Settlement Agreement as business confidential information (IPR2024-00011, Paper 9; IPR2024-00012, Paper 7; IPR2024-00022, Paper 9; IPR2024-00096, Paper 8) is *granted*;

FURTHER ORDERED that each Confidential Settlement Agreement (IPR2024-00011, Ex. 1033; IPR2024-00012, Ex. 1032; IPR2024-00022,

Ex. 1033; IPR2024-00096, Ex. 1030) shall remain designated as available only to "Parties and Board" in the Board's electronic filing system, be kept separate from the files of the involved patents, and be made available only under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c); and

FURTHER ORDERED that IPR2024-00011, IPR2024-00012, IPR2024-00022, and IPR2024-00096 are *terminated*.

IPR2024-00011 (Patent 9,990,670 B1)
IPR2024-00012 (Patent 8,787,933 B1)
IPR2024-00022 (Patent 9,489,690 B1)
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