Trials@uspto.gov
571–272–7822

Paper 12
Date: July 10, 2020

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

GREENTHREAD LLC,
Patent Owner.

IPR2020-00290
Patent 9,190,502 B2

Before ROBERT J. WEINSCHENK, MINN CHUNG, and RUSSELL E. CASS, *Administrative Patent Judges*.

CHUNG, *Administrative Patent Judge*.

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

I. INTRODUCTION

With Board authorization, Samsung Electronics Co., Ltd. ("Petitioner") and Greenthread LLC ("Patent Owner") filed a Joint Motion to Dismiss. Paper 10 ("Motion" or "Mot."). In the Motion, the parties state that they have settled their dispute regarding U.S. Patent No. 9,190,502 B2 ("the '502 patent"), "by virtue of a series of agreements ('Agreements') to which Patent Owner and Petitioner are parties and/or beneficiaries, and the terms of which are confidential." Mot. 1. The parties also filed what they indicate are "true copies" of the written Agreements. *Id.*; Exs. 2018, 2019, 2020. *Id.*

In addition, the parties filed a Joint Motion to Seal (Paper 11, "Motion to Seal"), requesting that Exhibits 2018, 2019, and 2020 be treated as business confidential information and be kept separate from the files of the '502 patent. Motion to Seal 2; Mot. 1. In the Motion to Seal, the parties also seek entry of the Default Protective Order provided in Appendix B of the Trial Practice Guide and request that Exhibit 2018 be made available to the Board and the filing party only. Motion to Seal 2. Although the Motion to Seal is jointly filed, the parties state that they agree "Patent Owner is the 'filing party' for purposes of restricting access to Exhibit 2018." *Id.* at 2 n.1. The parties represent that "Petitioner is a party to Exhibits 2019 and 2020 but is not a party to Exhibit 2018" and that they "agree that Exhibit 2018 should be available only to the Board and the filing party." *Id.* at 2–3.

II. ANALYSIS

This proceeding is in the preliminary stage, and no decision whether to institute a trial has been made. The parties indicate that the Agreements resolve all disputes between the parties regarding the '502 patent. Mot. 1.

The parties also certify that there is no other "agreement or understanding between the patent owner and a petitioner, including any collateral agreements referred to in such agreement or understanding, made in connection with, or in contemplation of, the termination" of this proceeding. *Id.* at 2. Under these circumstances, we determine that it is appropriate to dismiss the Petition (Paper 2) and terminate this proceeding. *See* 37 C.F.R. §§ 42.71(a), 42.74(a).

After reviewing the written Agreements, we find the Agreements contain business confidential information regarding the terms of the settlement and good cause exists to treat the Agreements as business confidential information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Thus, to the extent the Joint Motion to Seal requests Exhibits 2018, 2019, and 2020 be treated as business confidential information and be kept separate from the files of the '502 patent under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), the parties' request is granted.

As for the parties' request for entry of the Default Protective Order and restricting access to Exhibit 2018 to the Board and Patent Owner only, we note that both parties are allowed access to confidential information under the Default Protective Order. *See* Default Protective Order § 2(A) (Patent Trial and Appeal Board Consolidated Trial Practice Guide (Nov. 2019), *available at* https://www.uspto.gov/TrialPracticeGuideConsolidated, at 117). Thus, entry of the Default Protective Order would not restrict access to Exhibit 2018 as requested by the parties.

Accordingly, the parties are instructed to contact the Board within 5 business days of entry of this Decision to schedule a conference call with the Board to discuss options for filing or re-filing of any necessary motions

regarding treatment of Exhibit 2018. In the meantime, Exhibit 2018 will remain designated Confidential/Restricted, as filed, until further notice from this panel.

III. ORDER

It is hereby

ORDERED that the Joint Motion to Dismiss is *granted*;

FURTHER ORDERED that the parties' joint request to treat the Agreements (Exhibits 2018, 2019, and 2020) as business confidential information and be kept separate from the files of the '502 patent under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) is *granted*;

FURTHER ORDERED that the parties shall request a conference call with the panel within 5 business days of entry of this Decision to discuss options for filing or re-filing any necessary motions regarding treatment of Exhibit 2018;

FURTHER ORDERED that Exhibit 2018 shall remain designated Confidential/Restricted, as filed, until further notice from this panel; and

FURTHER ORDERED that the Petition is *dismissed* and this proceeding is *terminated* as to all parties.

FOR PETITIONER:

Walter Renner
David Holt
FISH & RICHARDSON P.C.
Axf-ptab@fr.com
Holt2@fr.com

FOR PATENT OWNER:

Cyrus Morton
Rajin Olson
ROBINS KAPLAN LLP
cmorton@roinskaplan.com
rolson@robinskaplan.com