

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALTENERGY POWER SYSTEM USA INC.,
Petitioner,

v.

CYBOENERGY, INC.,
Patent Owner.

IPR2024-00362
Patent 8,786,133 B2

Before KARL D. EASTHOM, AMBER L. HAGY, and
RUSSELL E. CASS, *Administrative Patent Judges*.

CASS, *Administrative Patent Judge*.

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

I. INTRODUCTION

With the Board’s authorization, Petitioner filed an Unopposed Motion to Dismiss and Terminate in the above-identified proceeding due to settlement. Paper 8 (“Motion”). In support of the Motion, Petitioner filed a Confidential Release and Settlement Agreement. Ex. 1012 (“Settlement Agreement”). Further, Petitioner and Patent Owner (collectively referred to as “the Parties”) filed a Joint Request that Settlement Agreement Be Treated as Business Confidential and be kept separate pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 9 (“Joint Request”).

II. DISCUSSION

In the Motion, Petitioner represents that the Parties have reached an agreement to jointly seek termination of the above-identified *inter partes* review proceeding, and we understand that Petitioner also represents that the filed copy of the Settlement Agreement is a true and complete copy. Motion 1–2 (stating “[t]he Board also directed Petitioner to file ‘a true copy of any written agreement made in connection with the request for dismissal and termination, as an Exhibit’”). Petitioner also represents that the Settlement Agreement resolves all currently pending Patent Office and District Court proceedings between the Parties involving the above-identified patent at issue, stating that “[t]he parties have settled their dispute and the related District Court litigation has been dismissed.” *Id.* at 2.

This proceeding is at an early stage, and we have not yet decided 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 good cause exists to terminate the proceeding with respect to the Parties by dismissing the Petition.

The Parties also filed a Joint Request that the Settlement Agreement be treated as business confidential information and be kept separate from the file of the patent involved in this *inter partes* proceeding. Joint Request 1. After reviewing the Settlement Agreement between Petitioner and Patent Owner, we find that the Settlement Agreement contains confidential business information regarding the terms of settlement, which is sufficient to treat the Settlement Agreement between Petitioner and Patent Owner as business confidential information pursuant to 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, for the reasons discussed above, it is:

ORDERED that Petitioner's Unopposed Motion to Dismiss and Terminate is *granted*, and the Petition is *dismissed*;

FURTHER ORDERED that the Joint Request that Settlement Agreement Be Treated as Business Confidential is *granted*, and the Settlement Agreement shall be kept separate from the files of Patent 8,786,133 B2 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).

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