

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NULIDS, LLC,
Petitioner,

v.

BLEPHEX, LLC,
Patent Owner.

IPR2024-00764
Patent 11,083,621 B2

Before JOSIAH C. COCKS, MEREDITH C. PETRAVICK, and
RICHARD H. MARSCHALL, *Administrative Patent Judges*.

COCKS, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

1. Introduction

On July 23, 2024, the parties filed a “Joint Motion to Terminate Pursuant to 35 U.S.C. § 317” (“Joint Motion”). Paper 8. The parties also filed a “Joint Request to Maintain Confidentiality Pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74” (“Joint Request”). Paper 9.

We issue this Order to inform the parties that additional action is necessary.

2. Discussion

At the outset, we note that, generally, a motion will not be entered without prior Board authorization. *See* 37 C.F.R. § 42.20(b); Consolidated Trial Practice Guide (“CTPG”)¹ 37. Here, the parties did not seek prior Board authorization in filing either the Joint Motion or the Joint Request. Nevertheless, given the joint nature of the Joint Motion and Joint Request, and given that the Board recognizes “[t]here are strong public policy reasons to favor settlement between the parties to a proceeding” (*see* CTPG 86), the panel, in this case, waives the requirement of § 42.20(b) as to prior Board authorization for those filings. *See* 37 C.F.R. § 42.5(b).

Pursuant to 37 C.F.R. § 42.74(b) “[a]ny agreement or understanding between the parties made in connection with, or in contemplation of, the termination of a proceeding shall be in writing and a true copy shall be filed with the Board before the termination of the trial.” The Joint Motion indicates the following: “The parties have agreed to settle their disputes and have reached a written agreement (the “Settlement Agreement”) to terminate IPR2024-00764, subject to the Board’s approval. NuLids is filing,

¹ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

confidentially, a true correct copy of the Settlement Agreement contemporaneously herewith as Exhibit 1013.” Joint Motion 3.

As of the date of the entry of this Order, however, there is no Exhibit 1013 of record in this proceeding, or any other paper or exhibit identifiable as the referenced “Settlement Agreement.” For the panel to consider the parties’ Joint Motion (Paper 8) and Joint Request (Paper 9), the parties must file a true copy of their Settlement Agreement and must do so no later than August 26th to ensure timely consideration of their Joint Motion.

It is so ORDERED.

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FOR PETITIONER:

Serge Krimnus, Esq.
Thomas Stanton, Esq.
Bochner PLLC
serge@bochner.law
tstanton@bochner.law

FOR PATENT OWNER:

Andrew J. Cochran
acochran@cahill.com