

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CURTIS INDUSTRIES, LLC

Petitioner

v.

B & D TECHNOLOGIES, LLC

Patent Owner

Case IPR2024-01150

Patent 10,632,815

JOINT MOTION TO TERMINATE PROCEEDING

EXHIBITS

CI-1001	U.S. Patent No. 10,632,815 to Reynolds
CI-1002	Excerpts from the Prosecution History of the '815 Patent
CI-1003	Declaration of Roelof deVries
CI-1004	<i>Toro Groundsmaster® 5900/5910; Comfort Zone</i> , YouTube Video, May 2, 2013, <i>available at</i> https://www.youtube.com/watch?v=aRQmaadM6Mo (“Toro Video”)
CI-1005	<i>Service Manual: Groundsmaster® 5900 & 5910</i> , The Toro Company, 2009 (“Toro Manual”)
CI-1006	<i>He Mows Grass In Air-Conditioned Comfort</i> , Farm Show Magazine, 2003 (“Judice”)
CI-1007	U.S. Pub. No. 2015/0165875 (“Uchida”)
CI-1008	Declaration of June Ann Munford
CI-1009	Declaration of Kathryn Talbot
CI-1010	USPTO, First Inventor to File (FITF) Comprehensive Training presentation, <i>available at</i> https://www.uspto.gov/sites/default/files/aia_implementation/fitf_comprehensive_training_prior_art_under_aia.pdf
CI-1011	Toro Europe YouTube channel, <i>available at</i> https://www.youtube.com/@ToroEurope/videos
CI-1012	Screen capture of the archived version of Exhibit CI-1005 captured by the Internet Archive on February 3, 2010, <i>available at</i> https://web.archive.org/web/20100203203155/http://toro.com/customercare/commercial/education/pdf/08159sl.pdf

- CI-1013 Screen Capture of Toro Product Information Center captured by the Internet Archive on February 2, 2010, *available at* <https://web.archive.org/web/20100202073353/https://landscape resolutions.toro.com/portal/server.pt?open=512&objID=232&PageID=0&cached=true&mode=2&userID=20161#>
- CI-1014 Screen Capture of Farm Show, Volume 27, Issue 3, 2003 captured by the Internet Archive on November 21, 2011, *available at* https://web.archive.org/web/20111121195914/http://www.farmshow.com/view_issue.php?i_id=67&vol=27&number=3&year=2003
- CI-1015 Patent Owner's Infringement Contentions
- CI-1016 Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation, Katherine K. Vidal (USPTO June 21, 2022), *available at* https://www.uspto.gov/sites/default/files/documents/interim_proc_discretionary_denials_aia_parallel_district_court_litigation_memo_20220621_.pdf
- CI-1017 Stipulation
- CI-1018 Bernard Nagengast, 100 Years of Air Conditioning, ASHRAE Journal (June 2002)
- CI-1019 Guy Reynolds, *Flashback: The Power Mower of the Future way back in 1957*, THE DALLAS MORNING NEWS, Apr. 28, 2016, *available at* <https://www.dallasnews.com/photos/2016/04/28/flashback-the-power-mower-of-the-future-way-back-in-1957/>
- CI-1020 Owner's Manual: Model No's EM/2 60, EM/2 72, Farm Star, captured by the Internet Archive on Sept. 23, 2010, *available at* <https://web.archive.org/web/20100923090839/http://www.farmstar.com/Manuals/fmower-fs.pdf>
- CI-1021 Heavy Duty Air Conditioning Service Manual, Badger Truck Refrigeration Inc. (Feb. 1, 2011), *available at* <https://www.btrac.com/documents/svc-manual-revision-i-feb-2011.pdf>

- CI-1022 Bart Hammig, et al., *Injuries associated with the use of riding mowers in the United States, 2002-2007*, 40 JOURNAL OF SAFETY RESEARCH 371 (2009)
- CI-1023 AutoROPS is designed to prevent tractor and riding-mower rollovers, Consumer Reports (June 9, 2009), *available at* <https://www.consumerreports.org/cro/news/2009/06/autorops-is-designed-to-prevent-tractor-and-riding-mower-rollovers/index.htm>
- CI-1024 Parties' Settlement Agreement

Pursuant to 35 U.S.C. § 317(a), Patent Owner, B & D Technologies LLC, and Petitioner, Curtis Industries, LLC (collectively “the Parties”), jointly move for an order terminating this *inter partes* review of U.S. Patent No. 10,632,815, which has not yet been instituted, subject to the terms of the attached Settlement Agreement dated January 18, 2025. The Board authorized the filing of the instant motion in an email dated January 17, 2025.

SETTLEMENT AGREEMENT

The Parties have settled their dispute in accordance with 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b). The Parties’ Settlement Agreement is in writing, and a true and correct copy is being filed concurrently herewith as Exhibit 1024. The Parties are also filing concurrently herewith a motion under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) to seal and to treat each furnished version of the Settlement Agreement as business confidential information and keep them separate from the files of the involved patent.

The Parties further certify that there are no collateral agreements or understandings made in connection with, or in contemplation of, the termination of the present *inter partes* review.

As stated in 35 U.S.C. § 317(a), because Petitioners and Patent Owner jointly request this termination, no estoppel under 35 U.S.C. § 315(e) shall attach to Petitioners.

1. Reasons Why Termination is Appropriate.

Termination is proper under 35 U.S.C. § 317(a) because the Parties are jointly requesting termination, and the Office has not yet “decided the merits of the proceeding before the request for termination is filed.” Indeed, in this IPR proceeding, no decision on the merits has been made, and no decision instituting trial has been entered.

Moreover, as noted in the Patent Office Trial Practice Guidelines, “[t]here are strong public policy reasons to favor settlement between the parties to a proceeding. . . . The Board expects that a proceeding will terminate after the filing of a settlement agreement, unless the Board has already decided the merits of the proceeding. 35 U.S.C. 317(a), as amended, and 35 U.S.C. 327.” Federal Register Vol. 77, No. 157 at 48768.

2. Status of Related District Court Litigation.

The '815 patent is the subject of the following pending litigation: *B & D Technologies, LLC v. Curtis Industries, LLC*, 4-23-cv-11479 (D. Mass.), filed June 30, 2023. The Parties filed with-prejudice dismissal papers on January 21, 2025, for all asserted claims and counterclaims pursuant to Rules 41(a)(1)(A)(ii) and (c) of the Federal Rules of Civil Procedure.

For the foregoing reasons, the Parties jointly request termination of IPR2024-01150.

Respectfully submitted,

Date: January 21, 2025

/Alexander M. Pechette/

P. Weston Musselman, Reg. No. 31,644
Alexander M. Pechette, Reg. No. 81,247
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402

For Petitioner, Curtis Industries, LLC

Date: January 21, 2025

/Douglas L. Bridges/

J. Hunter Adams, Reg. No. 69,994
Douglas L. Bridges, Reg. No. 54,730
AdamsIP, LLC
453 Dauphin St., 2nd Floor
Mobile, AL 36602

For Patent Owner,
B&D Technologies, LLC

CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e), the undersigned certifies that on January 21, 2025, a complete and entire copy of this Joint Motion to Terminate was provided via email to the Patent Owner by serving the email correspondence address of record as follows:

J. Hunter Adams (Reg. No. 69,994)
Douglas Bridges (Reg. No. 54,730)
AdamsIP, LLC
453 Dauphin St., 2nd Floor
Mobile, AL 36602

Email: hunter@adamsiplaw.com
doug@adamsiplaw.com

/Anastasia Renard/
Anastasia Renard
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
renard@fr.com