

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARISTA NETWORKS, INC.,
Petitioner,

v.

ORCKIT CORPORATION,
Patent Owner.

IPR2024-01238
Patent 8,830,821 B2

Before KRISTEN L. DROESCH, CHRISTOPHER L. OGDEN, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

DROESCH, *Administrative Patent Judge*.

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

Petitioner and Patent Owner filed a “Joint Motion to Terminate *Inter Partes* Review of U.S. Patent No. 8,830,821 Under 35 U.S.C. § 317 and 37 C.F.R. § 42.72.” Paper 16 (“Motion to Terminate” or “Mot.”). The parties also filed a “Joint Request to File Settlement Agreement as Business Confidential Information Pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74(c).” Paper 17 (“Request”). In support of the Motion to Terminate and Request, the parties filed a copy of a confidential settlement agreement. Ex. 1039 (“Settlement Agreement”).

In the Motion to Terminate, the parties represent that they “have reached an agreement that resolves all disputes between the Parties involving the ’821 Patent.” Mot. 2. The parties further represent that the Settlement Agreement is a true copy and that there are no other agreements between the parties concerning this proceeding. *See id.* at 1, 3. Although this proceeding is still pending before the Board following the Delegated Director Review (Paper 13) vacating the Board’s Decision Denying Institution, the parties have adequately shown that termination of the proceeding is appropriate. *See* Mot. 2–3. Accordingly, we grant the Motion to Terminate.

In the Request, the parties request that the Settlement Agreement be treated as business confidential information. *See* Request 1. After review, we find that the Settlement Agreement contains business confidential information regarding the terms of settlement. Accordingly, we grant the parties request to treat the Settlement Agreement as business confidential information and be kept separate from the files of the Patent No. 8,830,821 B2 pursuant to 37 C.F.R. § 42.74(c).

In the Request, “[t]he parties jointly request that in the event a person or entity makes a request for access to the Confidential Settlement

Agreement, that such written request be served upon the parties on the day the request is provided to the Board.” Request 1–2. In the event that a request is made to make the settlement agreement available, the appropriate course of action can be determined at the time of such request. Accordingly, we deny the parties’ request to preemptively mandate a specific action upon the occurrence of a possible future event. Thus, this portion of the parties’ Request is denied.

This Order does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

ORDER

Accordingly, it is:

ORDERED that the Motion to Terminate is *granted*, and this proceeding is *terminated* as to all parties; and

FURTHER, the Request is *granted-in-part*, and the Settlement Agreement shall be treated as business confidential information and be kept separate from the files of Patent 8,830,821 B2, and be 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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