

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EUNSUNG GLOBAL CORP.,
Petitioner,

v.

HYDRAFACIAL LLC,
Patent Owner.

IPR2025-00445
Patent 9,550,052 B2

Before ERIC C. JESCHKE, CYNTHIA M. HARDMAN, and
JAMIE T. WISZ, *Administrative Patent Judges*.

JESCHKE, *Administrative Patent Judge*.

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

Dismissing as Moot Motions to Seal and
Motion to Terminate as Time Barred
37 C.F.R. § 42.14; 35 U.S.C. § 315(b)

BACKGROUND

Petitioner, Eunsung Global Corporation, filed a Petition in this proceeding. Paper 2. Patent Owner, HydraFacial LLC, timely filed a Preliminary Response. Paper 10 (sealed version); Paper 11 (redacted version). The Board has not issued a decision on institution.

With the Board's prior authorization (Ex. 3003), the parties filed three documents: (1) a Joint Motion to Terminate due to settlement (Paper 21 (the "Motion" or "Mot.")); (2) a Joint Request to Treat Settlement Agreement as Business Confidential Information and to Keep Separate From the Patent Files (Paper 22 (the "Request" or "Req.")); and (3) a true copy of the settlement agreement made in connection with the termination of this proceeding (Ex. 2073 (the "Agreement")). Upon consideration of the arguments presented and for the reasons below, we *grant* the Motion, *grant* the Request, and *terminate* this proceeding. Prior to addressing the Motion, however, we address other pending motions.

DISCUSSION

A. Other Pending Motions

With the Board's prior authorization (Ex. 3001), Patent Owner timely filed a confidential Motion to Terminate the Petition as Time Barred under 35 U.S.C. § 315(b) (Paper 15) and various exhibits in support (some sealed and some fully public). Petitioner timely filed a confidential Opposition. Paper 16.

With the Motion to Terminate the Petition as Time Barred under 35 U.S.C. § 315(b), Patent Owner filed a Motion to Seal. *See* Paper 18. With its Opposition, Petitioner filed a Motion to Seal. *See* Paper 20.

In view of the Joint Motion to Terminate (which we grant below), we *dismiss as moot* these three pending motions. As discussed below, we *sua sponte* authorize the parties to file a joint motion to expunge the confidential information from the record. The information filed under seal will remain under seal until the Board rules on any joint motion to expunge. *See* 37 C.F.R. § 42.14.

B. Joint Motion to Terminate

Under the applicable regulations, the parties may agree to settle any issue in a proceeding. 37 C.F.R. § 42.74(a) (2024). In addition, “[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.” 37 C.F.R. § 42.74(b).

In the Motion, the parties state that they have settled their disputes and have reached a written agreement that resolves the disputes in this proceeding as well as the disputes in all other matters between the parties relating to the patents involved in these proceedings. Mot. 1; *see* 35 U.S.C. § 317(b) (requiring that “[a]ny agreement or understanding between the patent owner and a petitioner . . . made in connection with, or in contemplation of, the termination of an *inter partes* review . . . shall be in writing”). The parties further represent that the Agreement is a true copy and that “[n]o other such agreements, written or oral, exist between or among the parties.” Mot. 2.

Because the parties have satisfied the requirements to terminate the proceeding based on settlement, we *grant* the Motion and *terminate* the proceeding.

*C. Joint Requests to Treat Settlement Agreement
as Business Confidential Information*

The parties request that the Agreement (1) “be maintained as business confidential information” and (2) “be kept separate from the file of the patent involved in this inter partes review and be made available only on the showing of good cause or to Federal Government agencies on a written request, as reflected in 37 C.F.R. § 42.74(c).” Req. 1; *see* Mot. 2 (similar). After reviewing the Agreement between Petitioner and Patent Owner, we find that the Agreement contains confidential business information regarding the terms of settlement. We thus treat the Agreement as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), to be kept separate from the file of the involved patent.

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

*D. Sua Sponte Authorization to File a Joint
Motion to Expunge Confidential Information*

To address the confidential information in the record in this proceeding, we *sua sponte* authorize the parties to file a joint motion to expunge both Patent Owner’s and Petitioner’s confidential information from the record. *See* 37 C.F.R. § 42.56. Any joint motion to expunge must be filed within 30 days of issuance of this Decision.

ORDER

Accordingly, it is hereby:

ORDERED that the Motion to Terminate the Petition as Time Barred under 35 U.S.C. § 315(b) (Paper 15) is *dismissed as moot*;

FURTHER ORDERED that Patent Owner's Motion to Seal (Paper 18) is *dismissed as moot*;

FURTHER ORDERED that Petitioner's Motion to Seal (Paper 20) is *dismissed as moot*;

FURTHER ORDERED that the Joint Motion to Terminate due to settlement (Paper 21) is *granted*, and this proceeding is *terminated* with respect to all parties;

FURTHER ORDERED that the Joint Request to Treat Settlement Agreement as Business Confidential Information and to Keep Separate From the Patent Files (Paper 22) is *granted*;

FURTHER ORDERED that the Settlement Agreement (Ex. 2073) (1) shall be treated as business confidential information; (2) shall be kept separate from the file of U.S. Patent No. 9,550,052 B2; and (3) shall be made available only to Federal Government agencies on written request to the Board, or to any person on a showing of good cause;

FURTHER ORDERED that the parties are *authorized* to file a joint motion to expunge confidential information in this proceeding within 30 days of issuance of this Decision.

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