

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BMC SOFTWARE, INC.,
Petitioner,

v.

ZIT CONSULTING GMBH
Patent Owner.

Case PGR2016-00013
Patent 9,038,090 B1

Before JUSTIN T. ARBES, THOMAS L. GIANNETTI, and
KERRY BEGLEY, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

JUDGMENT
Termination of Proceeding
37 C.F.R. § 42.72

On April 7, 2017, the parties filed a joint motion under 35 U.S.C. § 327(a) and 37 C.F.R. § 42.72 to terminate this proceeding pursuant to a settlement agreement. Paper 20. The parties also filed a true copy of their written settlement agreement, made in connection with the termination of this proceeding and related district court litigation, in accordance with 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(b). Exhibit 1023. Additionally, the parties submitted a joint request to have their settlement agreement

treated as business confidential information under 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(c). Paper 21.

The parties submit that termination is appropriate because the parties have settled their dispute. Paper 20, 1. The parties represent that no other litigation or administrative proceedings involving U.S. Patent No. 9,038,090 B1 are pending or contemplated. *Id.*

Upon consideration of the request before us, we determine that terminating this proceeding with respect to both Petitioner and Patent Owner promotes efficiency and minimizes unnecessary costs. Based on the facts of this case, it is appropriate to enter judgment terminating the proceeding without rendering a final written decision. *See* 35 U.S.C. § 327(a); 37 C.F.R. § 42.72.

Accordingly, it is:

ORDERED that the joint motion to terminate PGR2016-00013 is *granted*;

FURTHER ORDERED that the above case is hereby *terminated* as to all parties, including Petitioner and Patent Owner; and

FURTHER ORDERED that the parties' joint request that the settlement agreement be treated as business confidential information, kept separate from the patent file, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(c), is *granted*.

PGR2016-00013
Patent 9,038,090 B1

PETITIONER:

Michael Chibib
Michael.chibib@pillsburylaw.com

Joshua Tucker
Josh.tucker@pillsburylaw.com

Brian Nash
Brian.nash@pillsburylaw.com

PATENT OWNER:

Justin Sauer
jsauer@addmg.com

Ryan Santurri
rsanturri@addmg.com