

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EMRG, LLC,
Petitioner,

v.

FATBOY THE ORIGINAL B.V.,
Patent Owner.

Case PGR2017-00004
Patent D764,823 S

Before KEN B. BARRETT, JENNIFER S. BISK, and
TRENTON A. WARD, *Administrative Patent Judges*.

WARD, *Administrative Patent Judge*.

DECISION
Termination of the Proceeding
37 C.F.R. § 42.71

EMRG, LLC (“EMRG”) and Fatboy the Original B.V. (“Fatboy”) filed a Joint Motion to Terminate Post Grant Review. Paper 10 (“Motion” or “Mot.”). The parties also filed a true copy of a Patent Settlement and License Agreement (“Agreement”). Ex. 2001. The parties identified the Agreement as business confidential information and requested that the Agreement be kept separate from the patent file under 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(c). Mot. 1.

The Board generally expects that a case “will terminate after the filing of a settlement agreement, unless the Board has already decided the merits.” *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012); *see* 37 C.F.R. § 42.72. Here, the proceeding is still in its early stages as the Board has not issued a decision on institution. EMRG and Fatboy indicate that, pursuant to the Agreement, they have settled their dispute regarding U.S. Patent No. D764,823 S. Mot. 1. EMRG and Fatboy also indicate that a Joint Motion for Dismissal With Prejudice of the parties’ was filed in the District Court case concerning U.S. Patent No. D764,823 S and is included as Exhibit D to the Agreement. *Id.* Under these circumstances, we determine that it is appropriate to terminate this proceeding. *See* 37 C.F.R. §§ 42.5(a), 42.71. We also determine that it is appropriate to treat the Agreement (Ex. 2001) as business confidential information to be kept separate from the patent file. *See* 35 U.S.C. § 327(b).

In consideration of the foregoing, it is hereby:

ORDERED that the Joint Motion to Terminate Post Grant Review is
granted;

FURTHER ORDERED that this proceeding is terminated as to all
parties; and

FURTHER ORDERED that the request to treat the Patent Settlement
and License Agreement (Ex. 2001) as business confidential information to
be kept separate from the patent file under 35 U.S.C. § 327(b) and 37 C.F.R.
§ 42.74(c) is *granted*.

PETITIONER:

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