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Paper 10
Date: February 28, 2020

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MILWAUKEE ELECTRIC TOOL CORPORATION,
Petitioner,

v.

BLACK & DECKER INC.,
Patent Owner.

PGR2020-00007
Patent 10,389,139 B2

Before BRIAN J. MCNAMARA, JEFFREY W. ABRAHAM, NABEEL U. KHAN, *Administrative Patent Judges*.

KHAN, *Administrative Patent Judge*.

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

I. INTRODUCTION

Petitioner and Patent Owner (collectively referred to as "the Parties") have requested that the above-identified post-grant review proceeding be terminated pursuant to a settlement. In an email dated February 19, 2020, we authorized the Parties to a file joint motion to dismiss the above-identified proceeding. On February 20, 2020, the Parties filed a Joint Motion to Terminate the above-identified proceeding. *See* Paper 8 ("Joint Motion"), 1. Along with the Joint Motion, the Parties filed a Settlement Agreement (Ex. 1024), as well as a Joint Request to Treat the Settlement Agreement as Business Confidential Information pursuant to 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(c) (Paper 9 ("Joint Request")).

II. DISCUSSION

In the Joint Motion, the Parties represent that they have reached an agreement to jointly seek termination of this post-grant review proceeding, and that the filed copy of the Settlement Agreement is a true and complete copy. Joint Motion 1. The Parties further represent that their settlement agreement resolves all currently pending Patent Office proceedings between the Parties involving the '139 patent. *Id*.

This proceeding is at an early stage, and we have not yet decided whether to institute a trial in the proceeding. In view of the early stage of the proceeding and the settlement between the Parties, we determine that good cause exists to dismiss the petition and terminate the proceeding with respect to the Parties.

The Parties also filed a Joint Request that the Settlement Agreement be treated as business confidential information and be kept separate from the file of the patent involved in this post-grant proceeding. Paper 9. We determine that good cause exists to treat the Settlement Agreement between

Petitioner and Patent Owner as business confidential information pursuant to 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(c).

This Order does not constitute a final written decision pursuant to 35 U.S.C. § 328(a).

III. ORDER

Accordingly, for the reasons discussed above, it is:

ORDERED that the Joint Motion to Terminate (Paper 8) is *granted*, and PGR2020-00007 is *terminated* with respect to Petitioner and Patent Owner pursuant to 37 C.F.R. § 42.72; and

FURTHER ORDERED that the Joint Request (Paper 9) to Treat the Settlement Agreement (Exhibit 1024) as Business Confidential Information is *granted*, and the Settlement Agreement shall be kept separate from the file of Patent 10,387,139 B2, 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).

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