Trials@uspto.gov
571-272-7822

Paper 21
Date: December 30, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TRAILBLAZER ATTACHMENTS LLC,
Petitioner,

v.

LANE SHARK USA, LLC,
Patent Owner.

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PGR2021-00069
Patent 10,905,044 B1

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Before PHILLIP J. KAUFFMAN, GEORGE R. HOSKINS, and PAUL J. KORNICZKY, *Administrative Patent Judges*.

HOSKINS, *Administrative Patent Judge*.

TERMINATION
Due to Settlement After Institution of Trial
*35 U.S.C. § 327; 37 C.F.R. § 42.74*

## I. INTRODUCTION

On December 24, 2021, with prior Board authorization, the parties filed a "Joint Motion to Terminate" the petition in this proceeding. Paper 20 ("Mot."). Along with the Joint Motion, the parties filed a copy of a Settlement Agreement (Exhibit 2028) settling the parties' dispute. *Id.* at 2–3. The parties represent that Exhibit 2028 is "[a] true and correct copy of the parties' settlement agreement," and "[t]here are no other collateral agreements or understandings made in connection with, or in contemplation of, the termination of the proceeding that have not been filed with the Board." *Id.* at 3. The parties also filed a Joint Request to treat the Settlement Agreement as business confidential information, and to maintain the agreement separate from the public file under 37 C.F.R. § 42.74(c). Paper 19.

## II. DISCUSSION

Under 35 U.S.C. § 327(a), "[a] post grant review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed." It is also provided in 35 U.S.C. § 327(a) that if no petitioner remains in the post grant review, the Office may terminate the review.

On March 12, 2021, Petitioner filed a Petition requesting a post grant review of claims 1–17 of U.S. Patent No. 10,905,044 B1. Paper 2. We instituted a trial[1] on August 27, 2021. Paper 10. Oral argument has not yet

[1] After Patent Owner filed a statutory disclaimer, only claims 1, 2, 5–9, and 16 remained in force at the time of institution. Paper 10, 2.

taken place, we have not yet decided the merits of the proceeding, and a final written decision has not been entered.

Notwithstanding that the proceeding has moved beyond the preliminary stage, the parties have shown adequately that termination of the proceeding is appropriate. Under these circumstances, we determine that good cause exists to terminate the proceeding with respect to all parties. We also have reviewed the Settlement Agreement, and we determine that it contains business confidential information regarding the terms of the settlement, and that good cause exists to treat the Settlement Agreement as business confidential information under 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

In consideration of the foregoing, it is hereby:

ORDERED that the parties' Joint Request (Paper 19) to treat the Settlement Agreement (Exhibit 2028) as business confidential information under 37 C.F.R. § 42.74(c) is *granted*, and the Settlement Agreement shall be kept separate from the file of U.S. Patent No. 10,905,044, 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); and

FURTHER ORDERED that the parties' Joint Motion to Terminate (Paper 20) is *granted*, and the proceeding is *terminated* with respect to Petitioner and Patent Owner, pursuant to 37 C.F.R. § 42.72.

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FOR PETITIONER:

Stephen E. Kabakoff
Eileen H. Rumfelt (*pro hac vice*)
MILLER & MARTIN, PLLC
Stephen.Kabakoff@millermartin.com
Eileen.Rumfelt@millermartin.com

FOR PATENT OWNER:

Mark A. Miller
L. Grant Foster
DORSEY & WHITNEY LLP
miller.mark@dorsey.com
foster.grant@dorsey.com