Trials@uspto.gov
571-272-7822

Paper 22
Entered: January 26, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KERR MACHINE COMPANY,
Petitioner,

v.

S.P.M. FLOW CONTROL, INC.,
Patent Owner.

PGR2022-00033
Patent 11,204,030 B2

Before MITCHELL G. WEATHERLY, KEVIN W. CHERRY, and AMANDA F. WIEKER, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

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

I. INTRODUCTION

On January 17, 2023, with Board authorization from an e-mail sent January 10, 2023, the parties presented a "Joint Motion to Terminate" the petition in this proceeding. Paper 17 ("Mot."). Along with the Joint Motion, the parties presented a copy of a settlement agreement that describes itself as "the entire agreement of the Parties concerning its subject matter," and which the parties describe as a "true and correct copy." Ex. 1032 § 10(c); Mot. 1. The parties assert that "the parties have reached a confidential settlement of their dispute with respect to the '030 Patent, which includes an agreement to terminate this and all related proceedings," and that the agreement "supersedes all prior or contemporaneous agreements (written or oral), representations, negotiations, and discussions concerning the subject matter." Mot. at 1; Ex. 1032 § 10(c).

The parties also presented a Joint Request to treat their agreement as business confidential information, and to maintain said agreement separate from the public file under 37 C.F.R. § 42.74(c). Paper 16.

II. DISCUSSION

On April 15, 2022, Petitioner filed a Petition requesting a post grant review of claims 1–10 and 13–20 of U.S. Patent No. 11,204,030 B2 (Ex. 1001). Paper 1. We instituted a trial on October 24, 2022. Paper 10. We have not yet decided the merits of the proceeding, and final written decisions have not been entered.

Notwithstanding that the proceedings have moved beyond the preliminary stage, the Parties have shown adequately that the termination of the proceedings is appropriate. Under these circumstances, we determine that good cause exists to terminate the proceedings with respect to both

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. § 318(a).

III. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the parties' Joint Request (Paper 16) to treat the settlement agreement (Exhibit 1032) as business confidential information under 37 C.F.R. § 42.74(c) is *granted*, and the Settlement Agreement shall be kept separate from the files of U.S. Patent No. 11,204,030, 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 Dismiss (Paper 17) is *granted*, and the proceeding is *terminated* with respect to Petitioner and Patent Owner, pursuant to 37 C.F.R. § 42.72.

For PETITIONER:

James Hall
Stephen Zinda
J. David Cabello
CABELLO HALL ZINDA, PLLC
james@chzfirm.com
stephen@chzfirm.com
david@chzfirm.com

For PATENT OWNER:

Jason W. Cook
George Davis
MCGUIREWOODS LLP
jcook@mcguirewoods.com
gdavis@mcguirewoods.com
SPM-Kerr@mcguirewoods.com