

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GARMIN INTERNATIONAL, INC. and
GARMIN USA INC.,
Petitioner,

v.

CUOZZO SPEED TECHNOLOGIES LLC,
Patent Owner.

Case IPR2013-00373
Patent 6,778,074

Before JAMESON LEE, MICHAEL P. TIERNEY, and
JOSIAH C. COCKS, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*.

JUDGMENT
Termination of Proceeding
37 C.F.R. § 42.73

On January 23, 2014, the parties filed a joint motion to terminate this *inter partes* review with respect to the petitioner (Garmin International, Inc. and Garmin USA Inc., collectively “Garmin”). Paper 16. With the joint motion, the parties

filed a copy of their written settlement agreement covering Patent 6,778,074 involved in this *inter partes* review. Ex. 1116. The parties also filed, on January 23, 2014, a joint request to have their settlement agreement treated as confidential business information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

Paper 17.

Under 35 U.S.C. § 317(a), “[a]n inter partes review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” The requirement for terminating review with respect to Garmin, as petitioner, is met. The Board instituted trial on December 18, 2013 (Paper 12), and has not yet, in this proceeding, rendered a decision on the merits with respect to the patentability of any involved claim. Also under 35 U.S.C. § 317(a), “If no petitioner remains in the inter partes review, the Office may terminate the review or proceed to a final written decision under section 318(a).” Garmin is the sole petitioner. The Board has discretion to terminate this review with respect to the patent owner (“Cuozzo”).

Garmin takes no position on whether this review should be terminated with respect to Cuozzo. However, Garmin represents that it will no longer participate even if the Board does not terminate this review. That means it will file no reply to Cuozzo’s patent owner response or an opposition to Cuozzo’s motion to amend claims, if any. It also will not be conducting any cross examination of Cuozzo’s witnesses, if the patent owner response relies on declaration testimony.

The joint motion indicates that in co-pending district court litigations involving Patent 6,778,074, Cuozzo will seek to have Garmin International, Inc.

and Garmin USA, Inc. dismissed as defendants. The joint motion also indicates that other defendants will remain in these related litigations. On this record, the other defendants have not filed a petition for *inter partes* review of Patent 6,778,074, and there is no pending motion by any third party for joinder of another *inter partes* review with this review.

Cuozzo, by way of statements in Appendix I submitted with the joint motion, seeks termination of this proceeding also as to Cuozzo. According to Cuozzo, continuing this trial without the participation of Garmin, at this early stage where Cuozzo has not yet submitted its patent owner response, is contrary to the “adjudicative model” Congress envisioned for post-grant proceedings under the America Invents Act. Also, Cuozzo also asserts that continuing the proceeding with respect to Cuozzo undermines the Congressional goal of speedy dispute resolution, because a patent owner would have little reason, if any, to enter into a settlement with a petitioner.

The Board determines that in the particular circumstances of this case it is appropriate to terminate review both as to petitioner Garmin and patent owner Cuozzo without rendering a final written decision *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72.

It is

ORDERED that the joint motion to terminate this proceeding with respect to Garmin GRANTED;

FURTHER ORDERED that the Board exercises its discretion to terminate this proceeding also with respect to Cuozzo;

Case IPR2013-00373
Patent 6,778,074

FURTHER ORDERED that this *inter partes* review is hereby terminated as to all parties including both petitioner Garmin International Inc. and Garmin USA Inc., and patent owner Cuozzo Speed Technologies LLC; and

FURTHER ORDERED that the parties's joint request to have their settlement agreement (Exhibit 1116) treated as business confidential information under the 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) is GRANTED.

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