

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACE EVERT, INC.,
Petitioner,

v.

LAKESOUTH HOLDINGS, LLC,
Patent Owner.

Case IPR2015-00987
Patent 6,612,713 B1

Before MICHAEL W. KIM, KRISTINA M. KALAN, and BETH Z. SHAW,
Administrative Patent Judges.

KALAN, *Administrative Patent Judge.*

TERMINATION
Dismissing the Proceeding
37 C.F.R. § 42.5(a), 37 C.F.R. § 42.71(a)

The parties have requested that the above-captioned proceeding be terminated pursuant to a settlement. The Board authorized the parties to file a joint motion to terminate the above-captioned proceeding on July 1, 2015.

On July 6, 2015, and pursuant to 35 U.S.C. § 317, the parties filed a joint motion to terminate the above-captioned proceeding (Paper 9), along with a joint motion to file the settlement agreement as business confidential information, to be kept separate from the patent file pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (Paper 10). The joint motion to file the settlement agreement as business confidential information included a copy of the settlement agreement. Paper 10, Exhibit 1.

Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement. *See, e.g.*, Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). This case is in the preliminary proceeding stage. A preliminary proceeding begins with the filing of a petition for instituting a trial and ends with a written decision as to whether trial will be instituted. *See* 37 C.F.R. § 42.2. Petitioner filed a Petition on April 1, 2015. Patent Owner has not yet filed a Preliminary Response, which is due on or before July 10, 2015. No decision whether to institute a trial has been made.

The joint motion to terminate indicates that the parties have settled their dispute involving U.S. Patent No. 6,612,713 B1 (“the ’713 patent”). Paper 9, 1. The joint motion to terminate further indicates that the ’713 Patent “is not the subject of any other proceeding pending before the United States Patent & Trademark Office, and there are no current or contemplated pending litigation proceedings involving the ’713 Patent.” *Id.* at 2.

Based on the facts of the case, and in view of the parties' joint request for termination of this proceeding, we determine that it is appropriate to dismiss the petition as to both Petitioner and Patent Owner without rendering either a decision to institute or a final written decision. *See* 37 C.F.R. §§ 42.5(a); 42.71(a). Therefore, the joint motion to terminate and the request to treat the settlement agreement as business confidential information are *granted*. This paper does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

Accordingly, it is

ORDERED that the joint motion to treat the settlement agreement as business confidential information, to be kept separate from the patent file, is *granted*;

FURTHER ORDERED that the joint motion to terminate the proceeding is *granted*; and

FURTHER ORDERED that the Petition for *Inter Partes* Review of the above-referenced patent is *dismissed*.

IPR2015-00987
Patent 6,612,713 B1

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