

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PRECISELEY MICROTECHNOLOGY CORP.,
Petitioner,

v.

DICON FIBEROPTICS, INC.,
Patent Owner.

Case IPR2015-01728
Patent 6,838,738 B1

Before LORA M. GREEN, JONI Y. CHANG, and
JACQUELINE T. HARLOW, *Administrative Patent Judges*.

HARLOW, *Administrative Patent Judge*.

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

On February 17, 2016, the parties filed a joint motion to terminate the instant proceeding pursuant to a settlement agreement.¹ Paper 8. The parties also filed a true copy of their written settlement agreement, made in connection with the termination of the instant proceeding, in accordance with 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b). Ex. 1014. Additionally, the parties submitted 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 9.

The Board instituted the instant *inter partes* review of U.S. Patent No. 6,838,738 B1 (“the ’738 patent”) on February 11, 2016. Paper 6. Neither a Patent Owner response, nor a reply by Petitioner has been filed, and no final hearing has been held.

In their joint motion to terminate, the parties indicate that they have settled their dispute, and reached agreement to terminate the instant proceeding. Paper 8, 1. Under the terms of their agreement, the parties also are required to dismiss with prejudice all claims and counterclaims asserted in the related litigation. *Id.*

Upon consideration of the parties’ contentions, we agree with the parties that terminating the instant proceeding with respect to both Petitioner and Patent Owner, at this early juncture, promotes efficiency and minimizes

¹ We note that pursuant to 37 C.F.R. § 42.20(b), the parties should have requested authorization to file a motion for termination prior to submission of the instant motion. Because no prejudice arises from this oversight, however, we waive the requirements of 37 C.F.R. § 42.20(b) in this instance, and address the merits of the joint motion for termination.

unnecessary costs. Based on the facts of this case, it is appropriate to enter judgment² without rendering a final written decision. *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72.

Accordingly, it is:

ORDERED that the joint motion to terminate IPR2015-01728 is *granted*;

FURTHER ORDERED that the instant proceeding is hereby *terminated* as to all parties, including Petitioner and Patent Owner; and

FURTHER ORDERED that the parties' joint request that the settlement agreement be treated as business confidential information kept separate from the patent file, 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. § 317(b) and 37 C.F.R. § 42.74(c), is *granted*.

² A *judgment* means a final written decision by the Board, or a *termination of a proceeding*. 37 C.F.R. § 42.2.

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PETITIONER:

Robert P. Lord
Tammy J. Terry
Jeffrey R. Guinn
OSHA LIANG LLP
lord@oshaliang.com
terry@oshaliang.com
guinn@oshaliang.com

PATENT OWNER:

Erica D. Wilson
Eric S. Walters
Philip H. Albert
James Hsue
DAVIS WRIGHT TREMAINE LLP
ericawilson@dwt.com
ericwalters@dwt.com
philipalbert@dwt.com
JamesHsue@dwt.com