

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TELEFONAKTIEBOLAGET LM ERICSSON and ERICSSON INC.,¹
Petitioner,

v.

CELLULAR COMMUNICATIONS EQUIPMENT LLC,
Patent Owner.

Case IPR2016-01484, Patent 9,025,590 B2
Case IPR2016-01485, Patent 8,867,472 B2
Case IPR2016-01486, Patent 9,078,262 B2

Before JUSTIN T. ARBES, BRYAN F. MOORE, and
GREGG I. ANDERSON, *Administrative Patent Judges*.

ANDERSON, *Administrative Patent Judge*.

DECISION

Joint Motion to Terminate
37 C.F.R. § 42.5(a), 42.74

¹ As identified in the above caption, this Decision is directed to three separate proceedings, respectively the '1484 IPR, the '1485 IPR, and the '1486 IPR

On January 4, 2017, Telefonaktiebolaget LM Ericsson and Ericsson Inc. (“Petitioner” or “Ericsson”) and Cellular Communications Equipment LLC (“Patent Owner”), filed a “Joint Motion of Petitioner and Patent Owner to Terminate Proceeding Pursuant to 35 U.S.C. § 317 and 37 C.F.R. §42.74” in each of the Ericsson IPRs (“Motion,” “Mot.,” respectively Papers 9, 11, and 10)² based on a settlement that resolves the parties’ disputes related to the challenged patents. The parties concurrently filed a true copy of a “Settlement and Patent License Agreement” (“Settlement Agreement,” respectively Exhibits 2030, 2002, and 2002), which resolves the parties dispute with respect to the Ericsson IPRs and Patent Owner’s suits against Petitioner for patent infringement in the United States District Court for the Eastern District of Texas in Civil Action Nos. 2:15-cv-00576, 2:15-cv-00579, 2:15-cv-00580 and 2:15-cv-00581 (the “lawsuits”). Mot. 2. The parties represent that they “have agreed to dismiss the related district court litigations with respect to the [challenged patents].” *Id.* at 4.

In the Motion, the parties request that the Settlement Agreement be treated as business confidential information and be kept separate from the underlying files of the challenged patents, as provided in 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (“A party to a settlement may request that the settlement be treated as business confidential information and be kept separate from the files of an involved patent or application.”). Mot. 3. On January 4, 2017, the parties also filed a “Joint Motion of Petitioner and Patent Owner to File Settlement Agreement as Business Confidential Information Pursuant to 35 U.S.C. § 317 and 37 C.F.R. §42.74” in each of the Ericsson IPRs (respectively Papers 10, 12, and 11) specifically requesting the Settlement

² The Motions and Settlement Agreement filed in the Ericsson IPRs are

Case IPR2016-01484 (Patent 9,025,590 B2)
Case IPR2016-01485 (Patent 8,867,472 B2)
Case IPR2016-01486 (Patent 9,078,262 B2)

Agreement be filed “as Business Confidential Information, which shall be kept separate from the file of the involved patent.” Paper 10, 2.

The Parties also certify that there are no collateral agreements or understandings made in connection with, or in contemplation of, the termination of the Ericsson IPRs. Mot. 4. The status of all pending litigation involving the challenged patents has been provided. *Id.* at 4–5.

We have not yet entered a decision on institution in any of the Ericsson IPRs. Under these circumstances, we determine that it is appropriate to terminate the proceedings. *See* 37 C.F.R. §§ 42.5(a), 42.72. This paper does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

ORDER

Accordingly, it is

ORDERED that the Joint Motion of Petitioner and Patent Owner to Terminate Proceeding Pursuant to 35 U.S.C. § 317 and 37 C.F.R. §42.74 (respectively Papers 9, 11, and 10) is *granted* as to each of the Ericsson IPRs;

FURTHER ORDERED that the Joint Motion of Petitioner and Patent Owner to File Settlement Agreement as Business Confidential Information Pursuant to 35 U.S.C. § 317 and 37 C.F.R. §42.74 (respectively Papers 10, 12, and 11) is *granted* as to each of the Ericsson IPRs and the Settlement Agreement (respectively Exhibits 2030, 2002, and 2002) shall be treated as business confidential information, shall be kept separate from the files of the involved U.S. Patent Nos. 9,025,590 B2; 8,867,472 B2; and 9,078,262 B2, and shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause; and

FURTHER ORDERED that a copy of this Decision shall be filed in each of the Ericsson IPRs (IPR2016-01484, IPR2016-01485, and IPR2016-01486).

Case IPR2016-01484 (Patent 9,025,590 B2)

Case IPR2016-01485 (Patent 8,867,472 B2)

Case IPR2016-01486 (Patent 9,078,262 B2)

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