

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM, INC. and AMAZON WEB SERVICES, INC.,
Petitioner,

v.

BROADCOM CORPORATION,
Patent Owner.

Case IPR2017-00814
Patent 6,766,389 B2

Before JAMES B. ARPIN, BARBARA A. PARVIS, and
DANIEL J. GALLIGAN, *Administrative Patent Judges*.

GALLIGAN, *Administrative Patent Judge*.

DECISION
Termination of Trial
35 U.S.C. § 317, 37 C.F.R. §§ 42.72 and 42.74

I. DISCUSSION

On August 18, 2017, we instituted *inter partes* review with respect to certain challenged claims of U.S. Patent No. 6,766,389 B2 (Ex. 1001, “the ’389 patent”). Paper 10, 30. Thus, this review is at a very early stage, and we have not yet reached the deadline for filing the Patent Owner Response. *See* Paper 11, 6.

On October 25, 2017, after receiving our authorization, the parties filed a Joint Motion to Terminate this proceeding (Paper 16) pursuant to a written agreement, as well as a Joint Request (Paper 17) to have the agreement treated as business confidential information under 37 C.F.R. § 42.74(c). *See also* 35 U.S.C. § 317(b). The parties also filed a true copy of their written agreement. Ex. 1013.¹ In the Joint Motion to Terminate, the parties represent that they have settled all of their disputes regarding the ’389 patent, both here and before the U.S. District Court for the Central District of California. Paper 16, 2, 4.

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

¹ The agreement refers also to IPR2017-00811. In their Joint Motion to Terminate in IPR2017-00811, the parties did not file this agreement. Rather, the parties filed Exhibit 1010, entitled “Statement of the Parties Regarding Joint Request to Terminate,” and a stipulation of dismissal (Ex. 2001), which, according to the parties, “represents the only agreements made in connection with, or in contemplation of, the termination of this proceeding.” IPR2017-00811, Paper 14, 4. The parties are advised to file the agreement (Ex. 1013) in IPR2017-00811 “For Board and Parties Only,” pursuant to 35 U.S.C. § 317(b).

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merits of the proceeding before the request for termination is filed.” Further, under 35 U.S.C. § 317(b),

[a]ny agreement or understanding between the patent owner and a petitioner, including any collateral agreements referred to in such agreement or understanding, made in connection with, or in contemplation of, the termination of an inter partes review under this section shall be in writing and a true copy of such agreement or understanding shall be filed in the Office before the termination.

As the parties have filed their written agreement and jointly requested termination, we determine that it is appropriate to terminate this proceeding without rendering a final written decision under 35 U.S.C. § 318(a) as to the patentability of claims 1–3, 7, and 8 of the ’389 patent, which are all the claims on which trial has been instituted (Paper 10, 30). *See* 35 U.S.C. § 317; 37 C.F.R. §§ 42.72, 42.74.

II. ORDER

Accordingly, it is:

ORDERED that the parties’ Joint Request that their agreement (Ex. 1013) be treated as business confidential information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) is GRANTED;

FURTHER ORDERED that the parties’ Joint Motion to Terminate this proceeding is GRANTED, and this proceeding is hereby terminated; and

FURTHER ORDERED that the parties shall file a true copy of the agreement (Ex. 1013) in IPR2017-00811 “For Board and Parties Only.”

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