

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BOYDSTUN EQUIPMENT MANUFACTURING, LLC,
Petitioner,

v.

COTTRELL, INC.,
Patent Owner.

Case IPR2017-00962
Patent 7,585,140 B1

Before TIMOTHY J. GOODSON, JAMES A. WORTH, and
JAMES J. MAYBERRY, *Administrative Patent Judges*.

MAYBERRY, *Administrative Patent Judge*.

DECISION

Granting Joint Motion to Terminate
35 U.S.C. § 317(a); 37 C.F.R. § 42.72

Granting Joint Requests to Treat Settlement Agreement
as Business Confidential Information
35 U.S.C. § 317(b); 37 C.F.R. § 42.74(c)

Pursuant to our authorization, the parties, Petitioner Boydstun Equipment Manufacturing, LLC (“Boydstun”) and Patent Owner Cottrell, Inc. (“Cottrell”), filed a Joint Motion to Terminate *Inter Partes* Review (Paper 18, “Joint Motion to Terminate”), seeking to terminate IPR2017-00962. This proceeding involves U.S. Patent No. 7,585,140 B1 (the “140 patent”). We instituted trial in this proceeding on August 30, 2017 (Paper 8) and have not yet issued a Final Written Decision on the merits.

Pursuant to 37 C.F.R. § 42.74(b), the parties also filed an unexecuted copy of “[a] settlement agreement between Boydstun and Cottrell,” as Exhibit 2007. *See* Paper 18, 1. To ensure that we had “a true copy” of the agreement between the parties as required by 37 C.F.R. § 42.74(b), we requested that the parties file an executed copy of their agreement, which was filed as Exhibit 2008. The parties also filed requests that Exhibits 2007 and 2008 be treated as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) and kept separate from the file of the ’140 patent. Paper 19; Paper 20 (addressing Exhibits 2007 and 2008, respectively). These requests state that “[t]here is good cause to treat the settlement [agreement] as Business Confidential Information because it contains competitively sensitive business information including the terms of settlement, the disclosure of which would harm the businesses of Boydstun and Cottrell.” Paper 19, 1; Paper 20, 1.

In the Joint Motion to Terminate, “[t]he parties certify that there are no other collateral agreements or understandings made in connection with, or in contemplation of,” terminating this *inter partes* review proceeding. Paper 18, 1. The parties indicate that they have already dismissed related

district court litigation involving the '140 patent. *Id.* The parties also indicate that “there is no litigation or proceeding involving the '140 patent contemplated in the foreseeable future.” *Id.*

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 parties indicate that terminating these proceedings “is appropriate because the parties have settled all of the judicial and administrative matters concerning the '140 patent.” Paper 18, 1.

In view of the circumstances presented in this case, we agree that terminating this proceeding is proper at this time. Indeed, there are strong public policy reasons to favor settlement between the parties to a proceeding. *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012); *see also* Paper 25, 1 (quoting the *Trial Practice Guide*). When, as here, we have not decided the merits, we generally expect that the proceeding will terminate after the filing of a settlement agreement. *See id.*

Based on the preceding, we determine that it is appropriate to terminate this *inter partes* review proceeding without rendering a Final Written Decision as to the patentability of the challenged claims of the '140 patent.

Accordingly, it is:

ORDERED that, as was timely requested by the parties, the settlement agreements (Exs. 2007 and 2008) shall be treated as business confidential

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information and kept separate from the file of U.S. Patent No. 7,585,140 B1, under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c); and

FURTHER ORDERED that the Joint Motion to Terminate this proceeding is *granted*, and this proceeding is hereby terminated.

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