

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONOS, INC.,
Petitioner,

v.

D&M HOLDINGS INC.,
Patent Owner.

Case IPR2017-01045
Patent 7,987,294 B2

Before JONI Y. CHANG, JENNIFER S. BISK, and
JON M. JURGOVAN, *Administrative Patent Judges*.

JURGOVAN, *Administrative Patent Judge*.

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

Petitioner, SONOS, INC. (“SONOS”), and Patent Owner, D&M HOLDINGS INC. (“D&M HOLDINGS”), jointly move to terminate the instant *inter partes* review in light of their settlement that resolves their dispute regarding U.S. Patent No. 7,987,294 B2 (“the ’294 patent”). Paper 34 (“Mot.”). The parties also filed a true copy of their written settlement agreement in connection with the termination as required by 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b). Ex. 1018. Pursuant to 37 C.F.R. § 42.74(c), the parties additionally jointly request to treat the Settlement Agreement as business confidential information kept separate from the file of the involved patent. Mot. 1.

For the reasons set forth below, the Joint Motion to Terminate this proceeding and the Joint Request to File Settlement Agreement as Business Confidential Information are *granted*.

Under the Leahy-Smith America Invents Act, settlement between the parties to a proceeding is encouraged. Notably, 35 U.S.C. § 317(a), in part, provides the following (emphasis added):

(a) IN GENERAL.—An inter partes review instituted under this chapter shall be *terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner*, unless the Office has decided the merits of the proceeding before the request for termination is filed. If the inter partes review is terminated with respect to a petitioner under this section, *no estoppel under section 315(e) shall attach to the petitioner*, or to the real party in interest or privy of the petitioner, on the basis of that petitioner’s institution of that inter partes review.

Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). Here, the parties indicate that their Settlement Agreement resolves the underlying district court litigations

related to the aforementioned *inter partes* review.¹ Mot. 1. Although the instant *inter partes* review has been instituted, the proceeding is still in the briefing stage. We have not yet received a Reply, held an oral hearing, or entered a final written decision in this proceeding.

Upon review of the procedural posture of this proceeding and the facts before us, we determine that the parties' requests have merit, and that it is appropriate to terminate this proceeding.

In consideration of the foregoing, it is hereby:

ORDERED that the Joint Motion to Terminate is *granted*;

FURTHER ORDERED that the instant *inter partes* review is terminated as to all parties including SONOS and D&M HOLDINGS; and

FURTHER ORDERED that the Joint Request to File Settlement Agreement as Business Confidential Information and to keep such settlement agreement separate from the patent file, and to make it 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*.

¹ *Sonos, Inc. v. D&M Holdings, Inc.*, No. 1:14-cv-01330 (D. Ct. Del. filed October 21, 2014) and *Sonos, Inc. v. D&M Holdings, Inc.*, No. 1:16-cv-00141 (D. Ct. Del. filed February 27, 2015).

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