

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FRONTIER WATER SYSTEMS, LLC,
Petitioner,

v.

GENERAL ELECTRIC CORPORATION,
Patent Owner.

Case IPR2017-01468
Patent 7,790,034 B2

Before KRISTINA M. KALAN, JON B. TORNQUIST, and
JEFFREY W. ABRAHAM, *Administrative Patent Judges*.

KALAN, *Administrative Patent Judge*.

DECISION

Dismissing the Proceeding
37 C.F.R. § 42.5(a), 37 C.F.R. § 42.71(a)

The parties have requested that the above-captioned proceeding be terminated pursuant to a settlement. The Board authorized the parties to file a joint motion to terminate or dismiss the above-captioned proceeding on October 25, 2017.

On October 27, 2017, and pursuant to 35 U.S.C. § 317, the parties filed a joint motion to terminate the above-captioned proceeding (Paper 14, “Joint Motion”) and a joint request to treat the settlement agreement as business confidential information, to be kept separate from the patent file pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (Paper 15), along with a copy of the settlement agreement (Ex. 1023) and the litigation dismissal order (Ex. 1024).

Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement. *See, e.g.*, Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48768 (Aug. 14, 2012). This case is in the preliminary proceeding stage. A preliminary proceeding begins with the filing of a petition for instituting a trial and ends with a written decision as to whether trial will be instituted. *See* 37 C.F.R. § 42.2. In this case, Petitioner filed a Petition, and Patent Owner filed a Preliminary Response, but no decision whether to institute a trial has been made.

The parties jointly request that IPR2017-01468 be terminated. Paper 14. The parties “certify that EX1023 [(the settlement agreement)] is the complete agreement between the Parties, and no other collateral agreements or understandings have been made or are contemplated to be made relating to this IPR proceeding including its termination.” *Id.* at 3. The parties further represent that, pursuant to the settlement agreement, they have agreed to terminate not only the present proceeding but also the related

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district court litigation in the United States District Court for the Central District of Utah, which has been dismissed. *Id.* at 2 (citing Ex. 1024).

Based on the facts of this case, and in view of the parties' Joint Motion in this proceeding, we determine that it is appropriate to dismiss the Petition in the above-captioned case as to both Petitioner and Patent Owner without rendering either a decision to institute or a final written decision. *See* 37 C.F.R. §§ 42.5(a); 42.71(a). Therefore, the Joint Motion and the joint request to treat the settlement agreement as business confidential information are *granted*. This paper does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

Accordingly, it is

ORDERED that the joint request to treat the settlement agreement as business confidential information, to be kept separate from the patent file, is *granted*;

FURTHER ORDERED that the Joint Motion is *granted*; and

FURTHER ORDERED that the Petition for *Inter Partes* Review of the above-referenced patent is *dismissed*.

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