

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHENZHEN ZHIYI TECHNOLOGY CO. LTD., D/B/A ILIFE,
Petitioner,

v.

IROBOT CORP.,
Patent Owner.

Case IPR2017-02061
Patent 6,809,490 B2

Before WILLIAM V. SAINDON, TERRENCE W. MCMILLIN, and
AMANDA F. WIEKER, *Administrative Patent Judges*.

SAINDON, *Administrative Patent Judge*.

ORDER

Granting Joint Motion to Terminate Proceeding Due to
Settlement after Institution and
Granting Joint Request to Treat Settlement Agreement as
Business Confidential Information
35 U.S.C. § 317; 37 C.F.R. §§ 42.72, 42.74

I. INTRODUCTION

Petitioner and Patent Owner (collectively referred to as “the Parties”) have requested that the above-identified *inter partes* review proceeding be terminated pursuant to a settlement, after the institution decision. On September 27, 2018, the Parties filed a Joint Motion to Terminate the above-identified proceeding (“Joint Motion”). Paper 27, 1–3. The Parties represent that the Board authorized filing the Joint Motion in an email dated September 26, 2018. *Id.* at 1. Along with the Joint Motion, the Parties filed a Confidential Settlement Agreement. Exhibit 1013 (“Settlement Agreement”). The Parties also submitted a Joint Request to treat the Settlement Agreement as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (“Joint Request”). Paper 27, 3.

II. DISCUSSION

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 the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” It is also provided in 35 U.S.C. § 317(a) that if no petitioner remains in the *inter partes* review, the Office may terminate the review.

In the Joint Motion, the Parties represent that they have reached an agreement to jointly seek termination of this *inter partes* review proceeding, and that the filed copy of the Settlement Agreement is a true and complete copy. Paper 27, 1. The Parties further represent that their settlement agreement resolves all currently pending Patent Office, International Trade Commission, and District Court proceedings between the Parties involving the ’490 patent, and that the Parties will “file with the ITC and district court, respectively, stipulated motions requesting termination of the ITC Action and dismissing without prejudice all

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claims and counterclaims pending between iRobot and iLife in the iRobot District Court Action.” *Id* at 1–3.

We instituted a trial on the above-identified proceeding on March 12, 2018. Paper 8. We have not yet decided the merits of the proceeding, and a final written decision has not been entered. Notwithstanding that the proceeding has moved beyond the preliminary stage, the Parties have shown adequately that termination of the proceeding is appropriate. Under these circumstances, we determine that good cause exists to terminate the proceeding with respect to the Parties.

The Parties also filed a Joint Request that the Settlement Agreement be treated as business confidential information and kept separate from the file of the patent involved in this *inter partes* proceeding. Paper 27, 3. After reviewing the Settlement Agreement between Petitioner and Patent Owner, we find that the Settlement Agreement contains confidential business information regarding the terms of settlement. We determine that good cause exists to treat the Settlement Agreement between Petitioner and Patent Owner as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

This Order does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

III. ORDER

Accordingly, for the reasons discussed above, it is:

ORDERED that the Joint Motion to Terminate is *granted*, and IPR2017-02061 is *terminated* due to settlement after institution decision with respect to Petitioner and Patent Owner pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72; and

FURTHER ORDERED that the Joint Request to treat the Settlement

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Agreement as business confidential information is *granted*, and the Settlement Agreement shall be kept separate from the file of Patent 6,809,490 B2, and made 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).

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