

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FUJIAN SANA GROUP CO, LTD.,  
Petitioner,

v.

NICHIA CORPORATION,  
Patent Owner.

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Case IPR2018-00547  
Patent 8,120,057 B2

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Before WILLIAM V. SAINDON, STACEY G. WHITE, and  
NATHAN A. ENGELS, *Administrative Patent Judges*.

ENGELS, *Administrative Patent Judge*.

DECISION

Termination of the Proceeding Upon Settlement Prior to Institution  
*37 C.F.R. §§ 42.71(a), 42.74*

## I. INTRODUCTION

The parties filed a Joint Motion to Terminate Proceeding Pursuant to 35 U.S.C. § 317. Paper 12 (“Mot.”). The parties also filed what they indicate is a true and correct copy of a Settlement Agreement (Ex. 2007) (“Agreement”) and a Joint Request to File Settlement Agreement as Business Confidential Information Pursuant to 35 U.S.C. § 317 (Paper 13) (“Joint Request”).

## II. ANALYSIS

The parties indicate that they have settled their dispute and “request that the Board terminate this *inter partes* review proceeding in its entirety” pursuant to 35 U.S.C. § 317. Mot. 3. Section 317(a), however, relates to termination of “[a]n *inter partes* review *instituted* under this chapter.” 35 U.S.C. § 317 (emphasis added). As recognized in the motion, this proceeding is in the preliminary stage, and no decision has been made regarding whether to institute an *inter partes* review. As such, we treat the parties’ request as seeking settlement of the proceeding under 37 C.F.R. § 42.74.

Under these circumstances, we determine that it is appropriate to terminate this proceeding. *See* 37 C.F.R. §§ 42.71(a), 42.74(a). We also determine that it is appropriate to treat the Agreements as business confidential information to be kept separate from the patent file. *See* 37 C.F.R. § 42.74(c).

## III. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the proceeding is terminated; and

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FURTHER ORDERED that the Joint Request to treat the Agreements (Ex. 2007) as business confidential information to be kept separate from the patent file is *granted*.

PETITIONER:

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