

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,
Petitioner,

v.

BUSHNELL HAWTHORNE, LLC,
Patent Owner.

Case IPR2019-00909
Patent 7,310,686 B2

Before JOSIAH C. COCKS, JUSTIN T. ARBES, and JON M.
JURGOVAN, *Administrative Patent Judges*.

COCKS, *Administrative Patent Judge*.

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

On May 30, 2019, Petitioner, Cisco Systems, Inc., (“Cisco”) filed a “Motion to Terminate Inter Partes Review of U.S. Patent No. 7,310,686” (“the ’686 patent”). Paper 4 (“Motion” or “Mot.”).¹ Cisco also filed a “Notice of Stipulated Dismissal Pursuant to F.R.C.P. 41(a)(1)(A)(ii).” Ex. 1021. The Motion states that “Patent Owner Bushnell Hawthorne LLC [‘Bushnell’] does not oppose, and in fact agrees to, this motion.” Mot. 2. Bushnell further has filed a “Stipulation for Motion to Terminate” stating that it “agrees to the termination” of this proceeding. Paper 7. The Motion also states that “other than Exhibit 1021, there are no further agreements between the parties concerning the resolution of the dispute of the ’686 Patent.” Mot. 2. Exhibit 1021 states the following:

Plaintiff Bushnell Hawthorne, LLC, by counsel, hereby gives notice of the stipulated dismissal of Count I of its Amended Complaint asserting infringement of U.S. Patent No. 7,310,686 (the “’686 Patent”) WITH PREJUDICE.

Defendant Cisco Systems, Inc. (“Cisco”) hereby gives notice of the stipulated dismissal of its First Counterclaim seeking a declaration of non-infringement of the ’686 Patent and its Second Counter claim asserting invalidity of claims 1–41 of the ’686 Patent WITH PREJUDICE except that Cisco’s dismissal is WITHOUT PREJUDICE to assert substantially the same or similar counterclaims in the event a future claim of infringement of the ’686 Patent is asserted against Cisco or a Cisco customer, partner or reseller.

Ex. 1021, 1.

We have not yet determined whether to institute trial in this proceeding. Thus, this proceeding is in its initial stages. The Motion states

¹ The filings were authorized in e-mail correspondence from Board personnel on May 21, 2019.

IPR2019-00909
Patent 7,310,686 B2

that “the parties resolved all of their disputes concerning the ’686 Patent” and the district court granted the stipulated dismissal involving the ’686 patent on April 29, 2019. Mot. 2. Under the circumstances present here, we determine that it is appropriate to dismiss the petition. *See* 37 C.F.R. §§ 42.5(a), 42.71(a).

It is

ORDERED that Cisco’s “Motion to Terminate Inter Partes Review of U.S. Patent No. 7,310,686” (Paper 4) is *granted*; and

FURTHER ORDERED that, as a result of granting Cisco’s Motion, the Petition for *Inter Partes* Review of the above-referenced patent is *dismissed*.

IPR2019-00909
Patent 7,310,686 B2

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