

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICRON TECHNOLOGY, INC.,
Petitioner,

v.

VERVAIN, LLC,
Patent Owner.

IPR2021-01548
Patent 9,196,385 B2

Before STACEY G. WHITE, JON M. JURGOVAN, and STEVEN M.
AMUNDSON, *Administrative Patent Judges*.

JURGOVAN, *Administrative Patent Judge*.

TERMINATION
Due to Settlement After Institution of Trial
35 U.S.C. § 317; 37 C.F.R. § 42.74

I. INTRODUCTION

With the Board’s authorization, Petitioner Micron Technology, Inc. and Patent Owner Vervain, LLC (collectively, “the Parties”) filed a Joint Motion to Terminate in the above-captioned proceeding involving U.S. Patent No. 9,196,385 B2 (“the ’385 patent”). Paper 36 (“Joint Motion”). Along with the Joint Motion, the Parties filed a copy of a Settlement Agreement (Ex. 1072, “Agreement”) and an Executed Settlement Agreement (Ex. 1073, “Executed Agreement”), as well as Joint Requests that the Agreement and Executed Agreement be treated as business confidential information and kept separate from the file of the patent involved in the above-captioned proceeding. Paper 37 (“Joint Request-Agreement”), 38 (“Joint Request-Executed Agreement”) (collectively “Joint Requests”).

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.” 35 U.S.C. § 317(a) also provides 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 a settlement as to all the disputes in this proceeding and as to the ’385 patent between the parties.” Joint Motion 3. The Parties provided a copy of the Agreement and Executed Agreement. Ex. 1072, 1073. The Parties represent that “[n]o other such agreements, written or oral, exist between or among the Settling Parties.” *Id.*

We instituted trial for the above-identified *inter partes* review proceeding (*see* Paper 11), but we have not yet decided the merits of the proceeding, and final written decision has not been entered. Under these circumstances, we determine that it is appropriate to terminate the proceeding.

In the Joint Requests, the Parties request that the Agreement and Executed Agreement be treated as business confidential information and kept separate from the file of the patent involved in the above-captioned proceeding. Joint Request-Agreement 1, Joint Request-Executed Agreement 1. After reviewing the Agreement and Executed Agreement, we determine that it is appropriate to treat these documents as business confidential information pursuant to 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, it is:

ORDERED that the Joint Motion to Terminate is *granted*, and IPR2021-01548 is *terminated*; and

FURTHER ORDERED that the Joint Requests to treat the Agreement (Ex. 1072) and Executed Agreement (Ex. 1073) as business confidential information are *granted*, and the Agreement and Executed Agreement shall be kept separate from the file of U.S. Patent No. 9,196,385 B2, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 37 C.F.R. § 42.74(c).

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