

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AQ TEXTILES, LLC,
Petitioner,

v.

ARUN AGARWAL,
Patent Owner.

Cases

PGR2017-00041 (Patent 9,481,950 B2)
PGR2017-00042 (Patent 9,493,892 B1)
PGR2018-00018 (Patent 9,708,737 B2)

Before BART A. GERSTENBLITH, CARL M. DEFRANCO, and
KEVIN W. CHERRY, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

DECISION

Termination of Trial, Dismissing the Petition, and Settlement
35 U.S.C. § 327; 37 C.F.R. §§ 42.71(a), 42.72, 42.74

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PGR2017-00042 (Patent 9,493,892 B1)
PGR2018-00018 (Patent 9,708,737 B2)

By an email dated March 22, 2018, we authorized Patent Owner Arun Agarwal and Petitioner AQ Textiles, LLC (collectively, “the Parties”) to file joint motions to terminate these proceedings accompanied by true copies of all their agreements in contemplation of termination and a joint request to treat the filed copies of those agreements as business confidential information under 37 C.F.R. § 42.74(c).

On March 23, 2018, the Parties filed a Joint Motion to Terminate Proceedings Pursuant to 35 U.S.C. § 327 and to Seal Pursuant to 37 C.F.R. § 42.74(c) (Paper 14¹), copies of a written Settlement Agreement (Exhibit 2003), a Strategic Alliance Agreement (Exhibit 2004), and a License Agreement (Exhibit 2005).

The Parties indicate that they have settled their underlying dispute and have agreed to terminate these proceedings pursuant to the Settlement Agreement, Strategic Alliance Agreement, and License Agreement, true and correct copies of which were filed with the Parties’ Motion. Paper 14, 2. The Parties further indicate that there are no other proceedings concerning the subject patent. *See* Pet. 83; Paper 15, 1.

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. 48,756, 48,768 (Aug. 14, 2012). Although trial has been instituted in PGR2017-00041 and PGR2017-00042, we have not decided the merits of either proceeding. *See* 35 U.S.C. § 327(a) (“A post-

¹ Similar motions and exhibits were filed in all three proceedings. For simplicity, we cite only the papers filed in PGR2017-00042, unless otherwise noted.

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grant 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.”); 37 C.F.R. § 42.72 (“The Board may terminate a trial without rendering a final written decision, where appropriate . . .”). We are persuaded that, under these circumstances, termination of these proceedings is appropriate. This paper does not constitute a final written decision pursuant to 35 U.S.C. § 328(a).

As for PGR2018-00018, Patent Owner has yet to file a Preliminary Response and we have yet to institute trial. Thus, the proceeding is still in a preliminary stage. The parties indicate that they have “settled their dispute.” PGR2018-00018, Paper 6, 2. Accordingly, we determine that dismissal of the Petition in PGR2018-00018 is appropriate. *See* 37 C.F.R. § 42.71(a).

Accordingly, it is

ORDERED that the Parties’ Joint Motion to Terminate Proceedings Pursuant to 35 U.S.C. § 327 and to Seal Pursuant to 37 C.F.R. § 42.74(c) (PGR2017-00041, Paper 15; PGR2017-00042, Paper 14; PGR2018-00018, Paper 6) is *granted*;

FURTHER ORDERED that the Settlement Agreement (Exhibit 2003 in PGR2017-00041 and PGR2017-00042; Exhibit 2001 in PGR2018-00018), Strategic Alliance Agreement (Exhibit 2004 in PGR2017-00041 and PGR2017-00042; Exhibit 2002 in PGR2018-00018), and License Agreement (Exhibit 2005 in PGR2017-00041 and PGR2017-00042; Exhibit 2003 in PGR2018-00018) shall be kept separate from the file of the

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above-referenced respective patent, pursuant to 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(c);

FURTHER ORDERED that that the trials in PGR2017-00041 and PGR2017-00042 are *terminated*; and

FURTHER ORDERED that the Petition in PGR2018-00018 is *dismissed*.

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For Petitioner:

Jason L. Lester
Jason T. Condrasky
MACCORD MASON PLLC
jlester@maccordmason.com
jcondrasky@maccordmason.com

For Patent Owner:

Michelle W. Skinner
EDWARDS MAXSON MAGO & MACAULAY, LLP
mskinner@em3law.com