

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WOMBAT SECURITY TECHNOLOGIES, INC.,
Petitioner,

v.

PHISHME, INC.,
Patent Owner.

Case PGR2017-00050
Patent No. 9,674,221

**JOINT MOTION TO TERMINATE PROCEEDING
PURSUANT TO 35 U.S.C. § 327(a)**

Pursuant to 35 U.S.C. § 327(a) and 37 C.F.R. § 42.72, Wombat Security Technologies, Inc. (“Petitioner”) and PhishMe Inc. (“Patent Owner”) jointly move for termination of the post grant review of U.S. Patent No. 9,674,221 (“the ’221 patent”), Case No. PGR2017-00050, with the United States Patent and Trademark Office. This Joint Motion was authorized by the Board pursuant to its email dated November 30, 2017.

Petitioner filed its petition for post grant review on September 11, 2017. The parties have settled their dispute, and have reached agreement to terminate this post grant review. The Settlement Agreement has been made in writing and was executed by Petitioner and Patent Owner on November 29, 2017. A true copy of the Settlement Agreement in accordance with 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(b) is being submitted concurrently herewith as Exhibit 2001. There are no collateral agreements or understandings made in connection with, or in contemplation of, the termination of this post grant review.

Submitted concurrently herewith is a request by Petitioner and Patent Owner that the Settlement Agreement be treated as business confidential information, be kept separate from the file of the involved patents, and be 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. § 327(b) and 37 C.F.R. § 42.74(c).

Patent Owner filed two patent infringement lawsuits against Petitioner, subsequently consolidated, alleging infringement of the '221 patent and two other patents. The consolidated lawsuit is captioned *PhishMe, Inc. v. Wombat Security Technologies, Inc.*, C.A. No. 16-4030LPS-CJB, and was before the United States District Court for the District of Delaware. The consolidated lawsuit has been dismissed with prejudice. There are no other litigation or proceedings involving the '221 patent, and no litigation or proceeding is contemplated in the foreseeable future in view of the Settlement Agreement.

No other petitioners remain in this post grant review, and no final written decision on the merits has been entered. For at least these reasons, termination of the post grant review is proper under 35 U.S.C. § 327(a) and 37 C.F.R. § 42.74(a). Should this joint motion to terminate be denied, Petitioner would not continue to participate in this proceeding.

Dated: December 4, 2017

Respectfully submitted:

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ATTORNEYS FOR PATENT OWNER

Certificate of Service (37 C.F.R. § 42.6(e)(4))

I hereby certify that the attached JOINT MOTION TO TERMINATE PROCEEDING UNDER 35 U.S.C. § 327(a) was served as of the below date via electronic mail by agreement on the Petitioner at the following correspondence address(es):

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