

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APEX TOOL GROUP, LLC,
Petitioner,

v.

MILWAUKEE ELECTRIC TOOL CORPORATION,
Patent Owner.

PGR2020-00056
Patent 10,422,617 B1

Before GRACE KARAFFA OBERMANN, JOHN A. HUDALLA, and
AARON W. MOORE, *Administrative Patent Judges*.

OBERMANN, *Administrative Patent Judge*.

DECISION
Settlement Prior to Institution of Trial
37 C.F.R. § 42.74

With Board preauthorization, Petitioner and Patent Owner filed a joint motion to terminate the proceeding (Paper 15) and a joint request (Paper 16) to file a copy of a Confidential Settlement Agreement (Exhibit 2013) as business confidential information. The parties represent that Exhibit 2013 is a “true and correct copy” of their resolution to terminate the proceeding. Paper 15, 1. The parties also “represent that there are no other agreements, oral or written . . . made in connection with, or in contemplation of, the termination of this proceeding.” *Id.* Termination is proper because the Board has yet to issue an institution decision and the proceeding is still at an early stage. Paper 15, 2 (citing *Samsung Elecs. Co. v. Fundamental Innovation Sys. Int’l, Ltd.*, IPR2018-00605 (PTAB July 16, 2018) (Paper No. 10)).

We next turn to the parties’ request to keep Exhibit 2013 separate from the file of the challenged patent and made available only to Federal Government agencies on written request, or to any person on a showing of good cause. Paper 16, 1. The parties ask us to treat Exhibit 2013 “as business confidential information” (*id.*), but make no attempt to show that Exhibit 2013, in fact, contains business confidential information. *See generally*, Paper 15, Paper 16. Nevertheless, based on our own review of Exhibit 2013, we find that the document contains express terms requiring the parties to maintain its confidentiality. Exhibit 2013, Article 9 (filed for viewing by parties and Board only). On this record, we find that good cause exists to treat Exhibit 2013 as business confidential information pursuant to 37 C.F.R. § 42.74(c).

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It is

ORDERED that the parties' joint motion to terminate the proceeding (Paper 15) is *granted*;

FURTHER ORDERED that the parties' joint request (Paper 16) to keep Exhibit 2013 separate from the file of U.S. Patent No. 10,422,617, 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) is *granted*; and

FURTHER ORDERED that this proceeding is *terminated* and the Petition is *dismissed*.

PETITIONER:

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