

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EBAY ENTERPRISE, INC. and EBAY, INC.,
Petitioner,

v.

LAWRENCE B. LOCKWOOD,
Patent Owner.

Cases CBM2014-00025 (Patent 7,010,508)
CBM2014-00026 (Patent 5,576,951)¹

Before SALLY C. MEDLEY, MICHAEL W. KIM, and
BENJAMIN D. M. WOOD, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

Petitioner filed petitions for covered business method patent reviews of the two involved patents and Patent Owner filed preliminary responses.

¹ This order addresses similar issues raised in both cases. We exercise discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in subsequent papers.

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We instituted trials on May 15 and 20, 2014 in CBM2014-00026 and CBM2014-00025 respectively.

On October 2, 2014, the parties informed the Board that the parties have reached a settlement agreement. The parties seek authorization from the Board to file a joint motion to terminate the proceeding pursuant to 35 U.S.C. § 327.

A covered business method patent review has been instituted in each case. The Board does not have before it full briefing on the issues raised during each trial. Moreover, the Board has not entered a final written decision. 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.* 48756, 48768 (Aug. 14, 2012). The rule governing settlement indicates that any agreement between the parties made in connection with, or in contemplation of, the termination of a proceeding shall be in writing and filed with the Board. 37 C.F.R. § 42.74.

Based on the facts of these proceedings, the parties are authorized to, and shall file, in addition to the settlement agreement, a joint motion to terminate the proceeding briefly explaining why termination is appropriate in these cases. The parties also must file, as an exhibit, a true copy of their settlement agreement to terminate the proceedings. Any request that the agreement be treated as business confidential information and be kept separate from the files of the involved patent must be filed with the settlement agreement. 37 C.F.R. § 42.74(c). The parties are directed to FAQ G3 on the Board's website page at <http://www.uspto.gov/ip/boards/bpai/prps.jsp> for instructions on how to file

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their settlement agreement as confidential (*e.g.*, uploading as “Parties and Board Only”).

The joint motion to terminate and the settlement agreement shall be filed no later than October 10, 2014.

Accordingly, it is

ORDERED that the parties are authorized to file a separate joint motion to terminate in each proceeding;

FURTHER ORDERED that the joint motions are due no later than October 10, 2014; and

FURTHER ORDERED that the joint motions shall be accompanied by a true copy of the settlement agreement as required by 37 C.F.R. § 42.74(b);

FURTHER ORDERED that the parties may request that the settlement agreement be treated as business confidential information as specified by 37 C.F.R. § 42.74(c); and

FURTHER ORDERED that any confidential settlement agreement must be filed electronically via the Patent Review Processing System (PRPS) in accordance with the instructions provided on the Board’s website (*e.g.*, uploading as “Parties and Board Only”); and

FURTHER ORDERED that the remaining DUE DATES in the proceedings are *vacated*.

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