

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMPASS BANK, AMERICAN EXPRESS COMPANY, AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC., DISCOVER FINANCIAL SERVICES, DISCOVER BANK, DISCOVER PRODUCTS INC., NAVY FEDERAL CREDIT UNION, AND STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,
Petitioner,

v.

MAXIM INTEGRATED PRODUCTS, INC.,
Patent Owner.

Case CBM2015-00102
Patent 6,237,095

Before TREVOR M. JEFFERSON, MITCHELL G. WEATHERLY, and KERRY BEGLEY, *Administrative Patent Judges*.

WEATHERLY, *Administrative Patent Judge*.

ORDER

Dismissing Navy Federal Credit Union from the Case
37 C.F.R. §§ 42.5(a), 42.71(a)

On June 1, 2015, Navy Federal Credit Union (“NFCU”) and Maxim Integrated Products, Inc. (“Maxim”) filed a joint motion to terminate this

preliminary proceeding with respect to NFCU pursuant to 35 U.S.C. § 327(a).¹ Paper 9 (the “Joint Motion”). With the Joint Motion, NFCU and Maxim also filed a request to maintain as business confidential information a written settlement agreement reflecting the resolution of their dispute over the patent at issue. Paper 10, 1; *see also* Ex. 2002 (a copy of the settlement agreement).

The Joint Motion was filed without prior authorization from the Board and thus violates 37 C.F.R. § 42.20(b). Nevertheless, in the interests of justice and pursuant to 37 C.F.R. § 42.5(b), we waive the authorization requirement of 37 C.F.R. § 42.20(b) and consider the Joint Motion on its merits.

The time period for Maxim to file a preliminary patent owner’s response has not yet expired, and we, therefore, have not instituted trial. Thus, this preliminary proceeding is in its initial stages. Maxim and NFCU indicate that they have agreed to resolve all disputes between them related to the challenged patent. Joint Motion at 1. Under these circumstances, we determine that it is appropriate to dismiss NFCU as a party from the petition. *See* 37 C.F.R. §§ 42.5(a), 42.71(a). This paper does not constitute a final written decision pursuant to 35 U.S.C. § 328(a).

¹ We note that 35 U.S.C. § 327(a) does not authorize us to terminate a proceeding with respect to a petitioner until after a review is instituted. *See* 35 U.S.C. § 327(a) (stating a “post-grant review *instituted* under this chapter shall be terminated”) (emphasis added). Nevertheless, we consider the Joint Motion as seeking termination of the preliminary proceeding between NFCU and Maxim and dismissal of NFCU as a party, and we determine that we have authority to grant such relief pursuant to 37 C.F.R. §§ 42.5(a) and 42.71(a).

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Accordingly, it is

ORDERED that Navy Federal Credit Union and Maxim Integrated Products, Inc.'s Joint Motion to Terminate Navy Federal Credit Union's Participation in this Case Pursuant to 35 U.S.C. § 327 is *granted*;

FURTHER ORDERED that Navy Federal Credit Union is *dismissed* as a party from this case; and

FURTHER ORDERED that Navy Federal Credit Union and Maxim Integrated Products, Inc.'s Joint Request to File Settlement Agreement as Business Confidential Information under 35 U.S.C. § 327(b) is *granted*.

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