

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BLACKBERRY CORPORATION and BLACKBERRY LIMITED¹
Petitioners

v.

MOBILEMEDIA IDEAS LLC
Patent Owner

Case IPR2013-00016
Patent 6,441,828

Before KEVIN F. TURNER, JONI Y. CHANG, and
KALYAN K. DESHPANDE, *Administrative Patent Judges*.

CHANG, *Administrative Patent Judge*

DECISION
Termination With Respect to Petitioners
37 C.F.R. § 42.74

¹ Real-parties-in-interest Research In Motion Corporation and Research In Motion Limited have changed their names to “BlackBerry Corporation” and “BlackBerry Limited,” respectively (collectively, “BlackBerry”). Paper 22.

The parties filed a joint motion to terminate the instant proceeding, and a true copy of their written settlement agreement (Ex. 2013) made in connection with the termination in accordance with 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b). Paper 30. The parties also filed a joint request to have their settlement agreement treated as confidential business information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). *Id.* at 2.

For the reasons provided below, the joint motion to terminate is *granted-in-part*. That is, the instant proceeding is terminated with respect to Blackberry is *granted*, but the instant proceeding is *not terminated*. The joint request that the settlement agreement be treated as business confidential information is *granted*.

While the parties may agree to settle their issues related to the '828 patent, the Board is not a party to the settlement and may determine independently any question of patentability. 37 C.F.R. § 42.74(a).

On March 18, 2013, the Board issued a decision instituting the instant trial as to the challenged claims of Patent 6,441,828 (“the '828 patent”) based on four grounds of unpatentability under 35 U.S.C. §§ 102 and 103. Paper 16. In that decision, the Board determined that there is a reasonable likelihood that the challenged claims are unpatentable. *Id.* MobileMedia Ideas LLC (“MobileMedia”) did not file a patent owner response. Instead, MobileMedia filed a motion to amend the '828 patent, cancelling claims 6, 7, 15, 17, and 18 of the '828 patent, and proposing five substitute claims. Paper 21. MobileMedia also indicated that it has conceded that claims 6, 7, 15, 17, and 18 of the '828 patent had been cancelled. Paper 28 at 2.

Blackberry filed an opposition to MobileMedia's motion to amend claims (Paper 23), and MobileMedia filed a reply to Blackberry's opposition (Paper 24). An oral hearing was scheduled for October 18, 2013. Paper 27. However, in response to the parties' joint request to cancel the oral hearing, the Board cancelled the oral hearing for the instant proceeding. Paper 28 at 2, 4. Therefore, the trial issues had been briefed fully at the time the parties moved to terminate the proceeding.

In view of the parties' settlement agreement made in connection with the termination in accordance with 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b), the Board determines that it is appropriate to terminate the involvement of Blackberry. However, in view of the advanced stage of this proceeding, rather than terminate this proceeding, the Board will proceed to a final written decision. 35 U.S.C. §§ 317(a) and 318(a).

MobileMedia also requests that the Board grant the motion to amend claims (Paper 21) filed on May 20, 2013, and indicates that Blackberry agrees not to oppose the entry of the motion to amend claims. Paper 30 at 2. The Board will enter a decision on MobileMedia's motion to amend the '828 patent (Paper 21) in due course.

It is

ORDERED that the joint motion to terminate is *granted-in-part*; the instant proceeding is terminated with respect to Blackberry;

FURTHER ORDERED that the instant proceeding is *not terminated*, and the Board will proceed to a final written decision pursuant to 35 U.S.C. §§ 317(a) and 318(a); and

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FURTHER ORDERED that the joint request that the settlement agreement be treated as business confidential information and be kept separate from the patent files is *granted*.

PETITIONER:

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