

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION and APPLE INC.,
Petitioner,

v.

VIRNETX INC.,
Patent Owner.

Case IPR2014-00404¹
Patent 7,987,274 B2

Before MICHAEL P. TIERNEY, KARL D. EASTHOM, and STEPHEN C. SIU, *Administrative Patent Judges.*

TIERNEY, *Administrative Patent Judge.*

DECISION
Joint Motion to Terminate
37 C.F.R. § 42.72

¹ Case IPR2014-00484 has been joined with this case. Going forward, the caption will be changed to reflect that Microsoft is no longer a party to the proceeding.

Patent Owner and Microsoft filed a joint motion to terminate the trial proceedings as to a subset of Petitioner under 35 U.S.C. § 317(a). Paper 28. Along with the motion to terminate, Patent Owner and Microsoft filed a joint request to treat the settlement agreements as business confidential information under 35 U.S.C. § 317 and 37 C.F.R. § 42.74(c) (Papers 29 and 30) and filed copies of documents they described as the written settlement agreements (Exhibit 2044).

Under 35 U.S.C. § 317(a), “[a]n inter partes review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” Generally, Patent Owner and Microsoft state that termination with respect to Microsoft is appropriate as the Board has not decided the merits of the proceeding and as Microsoft will no longer be participating as a party in the proceeding. As we have not yet decided the merits of the proceeding, we hold that it is appropriate to terminate this proceeding with respect to Microsoft. Additionally, we grant Patent Owner and Microsoft’s request to treat the settlement agreement as business confidential information.

ORDER

Accordingly, it is:

ORDERED that the joint motion to terminate the involvement of the Microsoft is granted;

FURTHER ORDERED that, going forward, Microsoft shall no longer be listed on the caption;

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FURTHER ORDERED that the joint request that the settlement agreement (Exhibit 2044) be treated as business confidential information, kept separate from the file of the involved patent, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), is granted.

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