

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner,

v.

PROXYCONN, INC.,
Patent Owner

Case IPR2017-00261
Patent 6,757,717 B1

Before SALLY C. MEDLEY, THOMAS L. GIANNETTI, and
MITCHELL G. WEATHERLY, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

ORDER
Granting Motion to Terminate
37 C.F.R. §§ 42.71, 42.72

On May 11, 2017, the parties filed a joint motion to terminate this proceeding under 35 U.S.C. § 317. Paper 14. Along with the motion, the parties filed copies of a document they described as the written settlement agreement. Exhibit 1024. The motion was accompanied by a joint request to treat the settlement agreement as business confidential information under the provisions of 37 C.F.R. § 42.74(c). Paper 15.

Under 35 U.S.C. § 317(a), “[a]n inter partes review . . . 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.” Further, “[i]f no petitioner remains in the inter partes review, the Office may terminate the review or proceed to a final written decision under section 318(a).” *Id.* The parties state in their motion that they have reached settlement on all claims in the underlying litigation and do not contemplate any further litigation or controversy involving the challenged patent. Paper 14. They request that the proceeding be terminated. *Id.*

This proceeding is in the preliminary stages. A decision to institute has not been entered, and the Board has not reached a final decision on the merits of the petition. The Board is persuaded that, under these circumstances, good cause exists to dismiss the petition and terminate the proceeding without rendering a final written decision. 37 C.F.R. §§ 42.71, 42.72.

Accordingly, it is:

ORDERED that the petition is dismissed, the joint motion to terminate this proceeding is granted, and IPR2017-00261 is hereby terminated;

FURTHER ORDERED that the parties’ joint request that the settlement

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agreement (Exhibit 1024) 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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