

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LOWE'S COMPANIES, INC.,
LOWE'S HOME CENTERS, LLC, AND L G SOURCING, INC.,
Petitioners,

v.

NICHIA CORPORATION,
Patent Owner.

Case IPR2018-00601
Patent 9,490,411 B2

Before WILLIAM V. SAINDON, STACEY G. WHITE, and
NATHAN A. ENGELS, *Administrative Patent Judges*.

ENGELS, *Administrative Patent Judge*.

DECISION

Termination of the Proceeding Upon Settlement Prior to Institution
37 C.F.R. §§ 42.71(a), 42.74

I. INTRODUCTION

The parties filed a Joint Motion to Terminate Proceeding Pursuant to 35 U.S.C. § 317. Paper 7 (“Mot.”). The parties also filed what they indicate is a true and correct copy of a Settlement Agreement (Ex. 2027) (“Agreement”) and a Joint Request to File Settlement Agreement as Business Confidential Information Pursuant to 35 U.S.C. § 317 (Paper 8) (“Joint Request”).

II. ANALYSIS

The parties indicate that they have settled their dispute and have reached agreement “to terminate th[is] *inter partes* review” pursuant to 35 U.S.C. § 317(a). Mot. 2. Section 317(a), however, relates to termination of “[a]n *inter partes* review instituted under this chapter.” 35 U.S.C. § 317. This proceeding is in the preliminary stage, and no decision has been made regarding whether to institute an *inter partes* review. As such, we treat the parties’ request as seeking settlement of the proceeding under 37 C.F.R. § 42.74.

Under these circumstances, we determine that it is appropriate to terminate this proceeding. *See* 37 C.F.R. §§ 42.71(a), 42.74(a). We also determine that it is appropriate to treat the Agreements as business confidential information to be kept separate from the patent file. *See* 37 C.F.R. § 42.74(c).

III. ORDER

In consideration of the foregoing, it is hereby:
ORDERED that the proceeding is terminated; and

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FURTHER ORDERED that the Joint Request to treat the Agreements (Ex. 2027) as business confidential information to be kept separate from the patent file is *granted*.

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