

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ONEPLUS TECHNOLOGY (SHENZHEN) CO., LTD.,
Petitioner,

v.

BELL NORTHERN RESEARCH, LLC,
Patent Owner

IPR2022-00048
Patent 8,416,862 B2

Before BRYAN F. MOORE, SHARON FENICK, and JASON M. REPKO,
Administrative Patent Judges.

MOORE, *Administrative Patent Judge.*

DECISION
Settlement Prior to Institution of Trial
37 C.F.R. § 42.74

INTRODUCTION

Pursuant to our emailed authorization, the parties made several filings related to their desire to terminate the proceeding. Petitioner filed an Unopposed Motion to Terminate Proceeding Pursuant to 35 U.S.C. § 317(a). Paper 6 (“Motion to Terminate”). Patent Owner filed a response indicating that Patent Owner does not oppose Petitioner’s Motion to Terminate. Paper 8. The Motion to Terminate explains that the parties have settled their dispute relating to Patent 8,416,862 B2, through a Third Party and the parties’ settlement agreement includes three parts: (1) an agreement between Petitioner and the Third Party (“OnePlus Agreement”); (2) a release agreement between Petitioner and Patent Owner (“Release Agreement”); and (3) an agreement between Patent Owner and the Third Party (“BNR Agreement”). Paper 6, 1.

Petitioner filed the Release Agreement as Exhibit 1023 and the OnePlus Agreement as Exhibit 1022. Patent Owner filed the BNR Agreement as Exhibit 2001. Petitioner filed an “Unopposed Request That The Settlement Agreement [OnePlus Agreement (Ex. 1022)] Be Treated As Business Confidential Information And Be Kept Separate under 35 U.S.C. § 317(b).” Paper 7 (“Petitioner Confidentiality Request”).¹ Patent Owner filed an “Unopposed Request That The Settlement Agreement [BNR Agreement (Ex. 2001)] Be Treated As Business Confidential Information

¹ Petitioner states that Patent Owner does not oppose the content of the request. Paper 7, 1.

And Be Kept Separate under 35 U.S.C. § 317(b).” Paper 9 (“Patent Owner Confidentiality Request”).²

DISCUSSION

Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement, unless the Board has already decided the merits of the proceeding. Consolidated Trial Practice Guide, 86 (November 2019).³ This proceeding is at an early stage. Patent Owner has not yet filed a Preliminary Response and we have not issued a decision on whether to institute an *inter partes* review. Under these circumstances, we grant the Motion to Terminate (Paper 6) as to both Petitioner and Patent Owner.

We also grant, *in part only*, Petitioner’s Confidentiality Request (Paper 7), unopposed by Patent Owner, which is to treat the OnePlus Agreement (Exhibit 1023) as business confidential information and kept apart from the file of Patent 8,416,862 B2 pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). That portion of the request which states the following is *denied*, because no such requirement is contained in either 35 U.S.C. § 317(b) or 37 C.F.R. § 42.74(c):

OnePlus further requests that the Board order that in the event a person or entity makes a written request, as stated in 37 C.F.R. § 42.74(c)(1)-(2), for access to the OnePlus Agreement, that any such written request be served upon OnePlus on the day the written request is provided to the Board and that OnePlus be provided an opportunity to respond to the request.

Paper 7, 1.

² Patent Owner states that Petitioner does not oppose the content of the request. Paper 9, 1.

³ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

We also grant, *in part only*, Patent Owner's Confidentiality Request (Paper 9), unopposed by Petitioner, which is to treat the BNR Agreement (Exhibit 2001) as business confidential information and kept apart from the file of Patent 8,416,862 B2 pursuant to 37 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). That portion of the request which states the following is *denied*, because no such requirement is contained in either 35 U.S.C. § 317(b) or 37 C.F.R. § 42.74(c):

BNR further requests that the Board order that in the event a person or entity makes a written request, as stated in 37 C.F.R. § 42.74(c)(1)-(2), for access to the BNR Agreement, that any such written request be served upon BNR on the day the written request is provided to the Board and that BNR be provided an opportunity to respond to the request.

Paper 9, 1.

ORDER

It is

ORDERED that the Petitioner's Unopposed Motion to Terminate (Paper 6) is *granted* both as to Petitioner and Patent Owner;

FURTHER ORDERED that Petitioner's "Unopposed Request That The Settlement Agreement [OnePlus Agreement (Ex. 1022)] Be Treated As Business Confidential Information And Be Kept Separate under 35 U.S.C. § 317(b)" is *granted-in-part and denied-in-part*, as explained above, under the terms of 37 C.F.R. § 42.74(c);

FURTHER ORDERED that Patent Owner's "Unopposed Request That The Settlement Agreement [BNR Agreement (Ex. 2001)] Be Treated As Business Confidential Information And Be Kept Separate under 35 U.S.C. § 317(b)" is *granted-in-part and denied-in-part*, as explained above, under the terms of 37 C.F.R. § 42.74(c);

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FURTHER ORDERED that the OnePlus Agreement (Ex. 1022) and the BNR Agreement (Ex. 2001) shall be treated as business confidential information, shall be kept separate from the file of Patent 8,416,862 B2, and shall be made available only in accordance with the provisions of 37 C.F.R. § 42.74(c); and

FURTHER ORDERED that this proceeding is *terminated* both as to Petitioner and Patent Owner, and the Petition is *dismissed*.

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