

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HEWLETT PACKARD ENTERPRISE COMPANY,
Petitioner,

v.

SOVEREIGN PEAK VENTURES, LLC,
Patent Owner.

IPR2023-01260 (Patent 7,796,512 B2)
IPR2023-01261 (Patent 8,045,531 B2)
IPR2023-01262 (Patent 8,270,384 B2)

Before THU A. DANG, GARTH D. BAER, and JOHN R. KENNY,
*Administrative Patent Judges.*¹

BAER, *Administrative Patent Judge.*

DECISION
Settlement Prior to Institution of Trial
35 U.S.C. § 317; 37 C.F.R. § 42.74

¹ We exercise our discretion to issue one order for all of the above-captioned proceedings. The proceedings have not been consolidated, and the parties are not authorized to use this caption format.

IPR2023-01260 (Patent 7,796,512 B2)
IPR2023-01261 (Patent 8,045,531 B2)
IPR2023-01262 (Patent 8,270,384 B2)

I. INTRODUCTION

In each of the above-captioned preliminary proceedings, Petitioner Hewlett Packard Enterprise Company (“Petitioner”) and Patent Owner Sovereign Peak Ventures, LLC (“Patent Owner”) (collectively “the Parties”), with the Board’s prior authorization, filed a Joint Motion to Terminate Proceedings (“Joint Motions”). Paper 5.² In support of the Joint Motions, the Parties filed copies of a written “CONFIDENTIAL SETTLEMENT AND LICENSE AGREEMENT” (“Settlement Agreements”). IPR2023-01260, Ex. 2001; IPR2023-01261, Ex. 2001; IPR2023-01262, Ex. 2001. In each preliminary proceeding, the Parties also filed a Joint Motion to File Settlement Agreement as Business Confidential Information Pursuant to 35 U.S.C. § 317 (“Joint Requests”). Paper 6.

II. DISCUSSION

In the Joint Motions, the Parties jointly request that these *inter partes* review proceedings be terminated based on their settlement with respect to the patents involved in the proceedings. Joint Motions 1. The Parties represent that they have resolved their disputes with respect to the involved patents, they have executed an agreement to request termination of these proceedings, the filed copies of the Settlement Agreements are true and correct copies, and there are no other agreements, oral or written, made in connection with, or in contemplation of, the termination of these proceedings. *Id.* at 2–3.

² For purposes of expediency, we refer to the joint motion and request filed in IPR2023-01260. The Parties filed similar papers in each of the other proceedings captioned above.

IPR2023-01260 (Patent 7,796,512 B2)
IPR2023-01261 (Patent 8,045,531 B2)
IPR2023-01262 (Patent 8,270,384 B2)

There are strong public policy reasons to favor settlement between the parties to a proceeding. Office Patent Trial Practice Guide, 84 Fed. Reg. 64,280 (Nov. 21, 2019). Here, the proceedings are at an early stage, and we have not yet decided whether to institute a trial in the proceedings. In view of the early stage of the proceedings and the settlement between the Parties, termination of the proceedings is appropriate.

For at least these reasons, we agree that good cause exists and that it is appropriate to dismiss the petitions and terminate the preliminary proceedings without rendering a decision on institution or a final written decision. *See* 37 C.F.R. § 42.74.

The Parties also requested that the Settlement Agreements be filed as business confidential information and be kept separate from the files of the patents involved in these proceedings. Joint Requests 2. After reviewing the Settlement Agreements, we find that the Settlement Agreements contain confidential business information regarding the terms of settlement. Thus, we determine that good cause exists to treat the Settlement Agreements as business confidential information under 37 C.F.R. § 42.74(c), to keep them separate from the files of the involved patents and associated preliminary proceedings, and to limit their availability pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

This Order does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

III. ORDER

Accordingly, it is:

IPR2023-01260 (Patent 7,796,512 B2)

IPR2023-01261 (Patent 8,045,531 B2)

IPR2023-01262 (Patent 8,270,384 B2)

ORDERED that the Joint Motions to Terminate Proceedings are *granted* and the proceedings are *terminated*; and

FURTHER ORDERED that the Joint Requests to treat the Settlement Agreements as Business Confidential Information Pursuant to 35 U.S.C. § 317 are *granted*, and the Settlement Agreements shall remain designated as “Parties and Board Only” in Board’s filing system, shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause, and shall be kept separate from the files of the involved patents, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

IPR2023-01260 (Patent 7,796,512 B2)
IPR2023-01261 (Patent 8,045,531 B2)
IPR2023-01262 (Patent 8,270,384 B2)

For PETITIONER:

Patrick McPherson
Patrick Muldoon
DUANE MORRIS LLP
pdmcpherson@duanemorris.com
pcmuldoon@duanemorris.com

For PATENT OWNER:

Tarek Fahmi
Jonathan Tsao
ASCENDA LAW GROUP, PC
tarek.fahmi@ascendalaw.com
jonathan.tsao@ascendalaw.com