

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZETEC, INC.,
Petitioner,

v.

WESTINGHOUSE ELECTRIC CO.,
Patent Owner.

Case IPR2015-00280
Patent 6,823,269 B2

Before SCOTT R. BOALICK, *Deputy Chief Administrative Patent Judge*,
LINDA E. HORNER, KEVIN F. TURNER, BARBARA A. BENOIT, and
NEIL T. POWELL, *Administrative Patent Judges*.

TURNER, *Administrative Patent Judge*.

JUDGMENT
Termination of Proceeding
37 C.F.R. § 42.73

On March 3, 2015, the parties filed a joint motion to terminate in the *inter partes* review of U.S. Patent No. 6,823,269 B2. (“Motion,” Paper 8). With the joint motion, the parties filed a copy of their written settlement agreement (Ex. 1114) covering the instant patent involved in this proceeding. The parties also filed, concurrently, a joint request to have their settlement agreement treated as confidential business information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). (Paper 9).

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.” The requirement for terminating review with respect to Petitioner is met.

Under 35 U.S.C. § 317(a), “[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).” Zetec, Inc. is the sole petitioner in this review. The Board has discretion to terminate this review with respect to the Patent Owner (“Westinghouse Electric Company, LLC”). No decision on institution has been issued, and, apart from the instant Motion, there are no outstanding motions in this proceeding.

The Board acknowledges that the written settlement agreement (Ex. 1114) appears to be a true copy, and that the parties seek settlement of the actions between them, specifically including the instant proceeding, IPR2015-00280.

In the Motion, the parties represent that termination is warranted because the Board has not instituted a review, and the Patent Owner’s period for preliminary response has not yet expired. Motion 3. The parties also provide that the Parties’ related district court litigation has been dismissed with prejudice due to the

settlement, that there is no pending litigation involving the instant patent, and that there is no related proceeding currently before the Office. *Id.* at 3-4. In addition, the only parties to the related litigation involving the subject patent are Patent Owner and Petitioner, and there is no pending motion by any third party for joinder with this *inter partes* review.

The Board determines that, in the circumstances of this case, it is appropriate to terminate the review both as to Petitioner and Patent Owner without rendering a final written decision *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72.

It is

ORDERED that the joint motion to terminate IPR2015-00280 is GRANTED, and this *inter partes* review is hereby terminated as to all parties; and

FURTHER ORDERED that the parties' joint request to have their settlement agreement treated as business confidential information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) also is GRANTED.

IPR2015-00280
Patent 6,823,269 B2

PETITIONER:

Manny D. Pokotilow
Nicholas Tinari
CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOW, LTD.
mpokotilow@crbcp.com
nmtinari@crbcp.com

PATENT OWNER:

Alan G Towner
Douglas Hall
PIETRAGALLO GORDON ALFANO BOSICK & RASPANTI, LLP
agt@pietragallo.com
dmh@pietragallo.com