

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FITBIT, INC.,
Petitioner,

v.

IMMERSION CORP.,
Patent
Owner.

Case IPR2018-00588 Patent 8,059,105
Case IPR2018-00590 Patent 8,059,105
Case IPR2018-00591 Patent 8,351,299
Case IPR2018-00592 Patent 8,638,301
Case IPR2018-00593 Patent 8,638,301

Before BRYAN F. MOORE, PATRICK R. SCANLON, NEIL T. POWELL,
MINN CHUNG, and CARL L. SILVERMAN, *Administrative Patent Judges*.

SILVERMAN, Administrative Patent Judge

ORDER
Termination of the Proceeding
37 C.F.R. §§ 42.5, 42.71(a), 42.74(c)

Case IPR2018-00588 Patent 8,059,105
Case IPR2018-00590 Patent 8,059,105
Case IPR2018-00591 Patent 8,351,299
Case IPR2018-00592 Patent 8,638,301
Case IPR2018-00593 Patent 8,638,301

On July 26, 2018, with Board authorization, the parties filed in each of these proceedings a joint motion to terminate the proceeding, notice of settlement, and joint request to treat the settlement agreement as business confidential (Papers 7, 9)¹, along with what they indicate is their written settlement agreement (Paper 8).

In an email to the Board on July 18, 2018, Petitioner referred to “IPR 2018-00588, IPR 2018-00590, IPR 2018-00591, IPR 2018-00592, [and] IPR 2018-00593” and stated “[t]he parties have reached a settlement agreement that resolves all of their disputes.”

The parties state the above-identified IPR petitions are related to a lawsuit styled *Immersion Corp. v. Fitbit, Inc.*, No. 5:17-cv-03886- LHK, pending in the United States District Court for the Northern District of California and that the settlement between Petitioner and Patent Owner encompasses this related litigation (Paper 7, II, 2).

The joint request to treat the settlement agreement as business confidential information includes a request that the settlement agreement be kept separate from the patent file. Paper 9; *see also* 37 C.F.R. § 42.74(c) (“A party to a settlement may request that the settlement be

¹ For simplicity, we refer to the papers and exhibits of IPR2018-00588 as representative of the IPR’s for which Termination is requested.

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treated as business confidential information and be kept separate from the files of an involved patent or application.”).

The parties state reasons to dismiss the Petitions and terminate the above-identified IPR Petitions. Paper 7. In addition to being unopposed, the parties “have reached a settlement that resolves all disputes between Petitioner and Patent Owner in this proceeding and as to the ‘105 patent.” *Id.* at III, 3.

Each of these proceedings is at an early stage and the Board has not issued a decision on whether to institute trial. Based on the facts of this case, it is appropriate to dismiss the Petitions for *Inter Partes* Review.

Therefore, in each proceeding, the joint motion to terminate the proceeding and the joint request to treat the settlement agreement as business confidential information are granted. As requested by the parties, the settlement agreement will be treated as business confidential information and kept separate from the patent file. 37 C.F.R. § 42.74(c). This paper does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

Accordingly, it is

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ORDERED that the joint motion to terminate the above-captioned proceedings is granted;

FURTHER ORDERED that the proceedings in IPR 2018-000588, IPR 2018-00590, IPR 2018-00591, IPR 2018-00592, and IPR 2018-00593 are terminated pursuant to 37 C.F.R. §§ 42.5, .71; and

FURTHER ORDERED that the parties' joint request that the settlement agreement (Paper 8) be treated as business confidential information, be kept separate from the file of each involved patent, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, under 37 C.F.R. § 42.74(c) is granted.

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