

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CINMAR, LLC and FRONTGATE MARKETING, INC.,  
Petitioner,

v.

RICHELL USA, INC.,  
Patent Owner.

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IPR2020-00210 (Patent 7,568,449 B2)  
IPR2020-00211 (Patent 7,739,983 B2)  
IPR2020-00212 (Patent 8,230,816 B2)<sup>1</sup>

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Before CARL M. DEFRANCO, TIMOTHY J. GOODSON, and  
JAMES A. WORTH, *Administrative Patent Judges*.

GOODSON, *Administrative Patent Judge*.

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

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<sup>1</sup> This Order addresses issues that are the same in each of the identified cases. We exercise our discretion to issue one Order to be filed in each case. The parties are not authorized to use this style heading in subsequent papers.

IPR2020-00210 (Patent 7,568,449 B2)  
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## I. INTRODUCTION

Per our email authorization provided on March 11, 2020, Petitioner and Patent Owner (collectively “the Parties”) filed a Joint Motion to Terminate the Proceeding and Joint Request to Keep Papers Separate as Business Confidential Information in each of the above-captioned proceedings. Paper 6 (“Joint Motion”).<sup>2</sup> In support of the Joint Motion, the Parties also filed, in each of the above-captioned proceedings, a copy of a Settlement and Release Agreement. Ex. 1028 (“Agreement”).

## II. DISCUSSION

The Parties represent that they “have settled all of their disputes involving” the patents at issue in the above-captioned proceedings. Joint Motion 1. According to the Agreement, “the Parties now wish to settle the Action, terminate the IPRs and have come to a mutual agreement to resolve amicably any dispute among them relating to the Action.” Agreement 1.

This proceeding is at an early stage, and we have not yet decided whether to institute a trial in the proceeding. In view of the early stage of the proceeding and the settlement between the Parties, we determine that good cause exists to terminate the proceeding with respect to the Parties.

The Parties also request that the Agreement be treated as business confidential information, and that the Agreement be kept separate from the file of the patents involved in the above-captioned proceedings and not be made available to any third party, except as provided for in 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Joint Motion 3.

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<sup>2</sup> The papers and exhibits filed in these proceedings are substantively the same. We cite to the record in IPR2020-00210, unless otherwise noted.

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“A party to a settlement may request that the settlement be treated as business confidential information and be kept separate from the files of an involved patent or application. The request must be filed with the settlement. If a timely request is filed, the settlement shall only be available: (1) To a Government agency on written request to the Board; or (2) To any other person upon written request to the Board to make the settlement agreement available, along with the fee specified in § 42.15(d) and on a showing of good cause.” 37 C.F.R. § 42.74(c).

After reviewing the Agreement between the Parties, we find that the Agreement contains confidential business information regarding the terms of settlement. We determine that it is appropriate to treat the Agreement between the Parties as business confidential information pursuant to 37 C.F.R. § 42.74(c).

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

### III. ORDER

Accordingly, for the reasons discussed above, it is:

ORDERED that the Joint Motion to Terminate in each of the above-captioned proceedings is *granted*, and IPR2020-00210, IPR2020-00211, and IPR2020-00212 are *terminated* with respect to Petitioner and Patent Owner; and

FURTHER ORDERED that the Joint Request to Keep Papers Separate as Business Confidential Information in each of the above-captioned proceedings is *granted*, and the Agreement shall be kept separate from the files of Patent 7,568,449 B2, Patent 7,739,983 B2, and Patent 8,230,816 B2, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 37 C.F.R. § 42.74(c).

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