

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TREND MICRO INC.,
Petitioner,

v.

KAJEET, INC.,
Patent Owner.

IPR2023-00178
Patent 7,899,438 B2

Before KARL D. EASTHOM, JULIET MITCHELL DIRBA, and
IFTIKHAR AHMED, *Administrative Patent Judges*.

DIRBA, *Administrative Patent Judge*.

TERMINATION
Due to Settlement After Institution of Trial
35 U.S.C. § 317; 37 C.F.R. § 42.74

I. INTRODUCTION

With the Board’s authorization, Trend Micro Inc. (“Petitioner”) and Kajeet, Inc. (“Patent Owner”) (collectively “the Parties”) filed a Joint Motion to Terminate the above-identified proceeding due to settlement. Paper 15 (“Joint Motion”). In support, the Parties filed a Confidential Settlement Agreement. Exs. 2002, 2003 (collectively “Settlement Agreement”).¹ In addition, the Parties filed a Joint Request to Treat the Settlement Agreement as Business Confidential Information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74. Paper 16 (“Joint Request”).

II. DISCUSSION

The Parties represent that they have reached an agreement to jointly seek termination of this *inter partes* review proceeding, and that the filed copies of the Settlement Agreement are true and complete copies. Joint Motion 1; Joint Request 1. The Parties further represent that their settlement agreement resolves all currently pending proceedings between the Parties related to the patent challenged in this proceeding. Joint Motion 2–3.

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 the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” Section 317(a) also provides that if no petitioner remains in the *inter partes* review, the Office may terminate the review.

We instituted a trial in this proceeding on May 12, 2023. Paper 12

¹ The Parties state that the Settlement Agreement was executed in separate counterparts (Joint Motion 1), and the Parties filed each counterpart as a separate exhibit (*see* Exs. 2002, 2003).

(Institution Decision). We have not yet decided the merits of the proceeding, and a final written decision has not been entered. The Parties have shown adequately that the termination of the proceeding is appropriate. Under these circumstances, we determine that good cause exists to terminate the proceeding with respect to the Parties.

We also determine that the Settlement Agreement contains confidential business information regarding the terms of settlement, and therefore, we determine that good cause exists to treat the Settlement Agreement as business confidential information 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, for the reasons discussed above, it is:

ORDERED that the Joint Motion to Terminate (Paper 15) is *granted*, and IPR2023-00178 is *terminated* pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72; and

FURTHER ORDERED that the Joint Request to Treat the Settlement Agreement as Business Confidential Information (Paper 16) is *granted*, and the Settlement Agreement found in Exhibits 2002 and 2003 shall be kept separate from the file of U.S. Patent 7,899,438 B2, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

IPR2023-00178
Patent 7,899,438 B2

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