

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BOMBARDIER RECREATIONAL PRODUCTS INC.,
Petitioner,

v.

MHL CUSTOM, INC.,
Patent Owner.

IPR2024-00085¹ (Patent 9,586,659 B2)
IPR2024-00086² (Patent 9,359,044 B2)³

Before BART A. GERSTENBLITH, KEVIN W. CHERRY, and
MICHAEL L. WOODS, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

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

¹ Bombardier Recreational Products Inc. filed a petition in IPR2024-01107, is joined as petitioner (*see* Paper 29), and Foil Boarding Company, Inc. (“Foil Boarding”) was terminated as petitioner (*see* Paper 32).

² Bombardier Recreational Products Inc. also filed a petition in IPR2024-01108, is joined as petitioner (*see* IPR2024-00086, Paper 29 (PTAB Jan. 15, 2025)), and Foil Boarding was terminated as petitioner (*see* IPR2024-00086, Paper 32 (PTAB Jan. 23, 2025)).

³ This Order is entered in each captioned case as well as IPR2024-01107 and IPR2024-01108. The parties are not authorized to use this caption.

I. INTRODUCTION

With the Board’s authorization, Petitioner and Patent Owner (collectively referred to as “the Parties”) filed a Joint Motion to Terminate the above-identified *inter partes* review proceedings due to settlement (“Joint Motion”) in each of the above-identified proceedings. Paper 41.⁴ In support of the Joint Motion, the Parties filed an Executed Agreement (Ex. 1026 (“Settlement Agreement”)), as well as a Joint Request to File Settlement Agreement as Business Confidential Information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (Paper 42 (“Joint Request”)), in each of the above-identified proceedings.

II. DISCUSSION

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.

For each of the above-identified proceedings, in the Joint Motion, the Parties represent that they have reached an agreement to jointly seek termination of the *inter partes* review proceedings, and that the filed copy of the Settlement Agreement is a true and correct copy. Joint Motion 2.

The Parties have shown adequately that the termination of the proceedings is appropriate. Under these circumstances, we determine that good cause exists to terminate the proceedings.

⁴ For expediency, we cite to the documents filed in IPR2024-00085, unless otherwise indicated. Similar papers and exhibits were filed in IPR2024-00086.

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As noted above, the Parties also filed a Joint Request in each proceeding to file the Settlement Agreement as business confidential information and to keep the Settlement Agreement separate from the files of the patents at issue. Joint Request

3. After reviewing the Settlement Agreement between Petitioner and Patent Owner, we find that the Settlement Agreement contains confidential business information regarding the terms of settlement. We determine that good cause exists to treat the Settlement Agreement between Petitioner and Patent Owner as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) and to keep the Settlement Agreement separate from the files of the patents at issue.

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 (IPR2024-00085, Paper 41; IPR2024-00086, Paper 41) is *granted* in each of the above-identified proceedings, and IPR2024-00085 and IPR2024-00086 are *terminated* pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72; and

FURTHER ORDERED that the Joint Request to File Agreement as Business Confidential Information (IPR2024-00085, Paper 42; IPR2024-00086, Paper 42) is *granted* in each of the above-identified proceedings, and the Settlement Agreement (IPR2024-00085, Ex. 1026; IPR2024-00086, Ex. 1026) shall be kept separate from the files of U.S. Patent Nos. 9,586,659 B2 and 9,359,044 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).

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For PETITIONER (original):

James Adams

Douglas Bridges

ADAMS IP, LLC

hunter@adamsiplaw.com

bridges@capitallegalgroup.com

David Cavanaugh

Alexander Nemptzow

WILMER CUTLER PICKERING HALE AND DORR, LLP

david.cavanaugh@wilmerhale.com

alex.nemptzow@wilmerhale.com

PETITIONER IPR2024-01108 (joined)

David Cavanaugh

Alexander Nemptzow

WILMER CUTLER PICKERING HALE AND DORR LLP

david.cavanaugh@wilmerhale.com

alex.nemptzow@wilmerhale.com

For PATENT OWNER:

Robert Theuerkauf

Megan Gibson

Eric Barr

GRAY ICE HIGDON

rjt@grayice.com

mgibson@grayice.com

ebarr@grayice.com