

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HULU, LLC, NETFLIX, INC.,
SPOTIFY USA INC., and VIMEO, LLC,
Petitioner,

v.

iMTX STRATEGIC, LLC,
Patent Owner.

Case CBM2015-00147
Patent 7,269,854 B2

Before THOMAS L. GIANNETTI, JAMES B. ARPIN, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

ORDER
Staying Reissue Proceeding
37 C.F.R. § 42.3(a)

At the initial conference in this case, on January 5, 2016, the panel and counsel for the parties discussed application 14/803,629 to reissue the '854 patent filed by Patent Owner on July 20, 2015. Patent Owner confirmed that the application includes the original claims of the patent. Patent Owner first advised the Board of this filing on December 21, 2015. Paper 16.

The panel directed Patent Owner to file a memorandum, not exceeding five pages in length, stating (1) why the reissue proceeding should not be stayed (*see* 37 C.F.R. § 42.3(a)) and (2) why the reissue application was not brought to the attention of the Board sooner (*see* 37 C.F.R. § 42.8(a)(3)).

On January 11, 2016, Patent Owner advised the Board, by email, that Patent Owner does not oppose a stay of the reissue proceeding. The email further states: "Patent Owner has contacted Petitioners to inform them that Patent Owner will not oppose a stay, and Petitioners indicated that they would likewise not oppose a stay." Under the circumstances, the panel advised Patent Owner that filing the requested memorandum was unnecessary.

DISCUSSION

The Director has authority to stay a reissue proceeding pursuant to 35 U.S.C. § 325(d), applicable to covered business method patent reviews, which provides:

(d) MULTIPLE PROCEEDINGS.—Notwithstanding sections 135(a), 251, and 252, and chapter 30, during the pendency of any post-grant review under this chapter, if another proceeding or matter involving the patent is before the Office, the Director

may determine the manner in which the post-grant review or other proceeding or matter may proceed, including providing for stay, transfer, consolidation, or termination of any such matter or proceeding.

35 U.S.C. § 325(d).

Rule 42.222(a) (37 C.F.R. § 42.222(a)) permits the Board to enter an order to effect such a stay:

(a) *Multiple Proceedings*. Where another matter involving the patent is before the Office, the Board may during the pendency of the post-grant review enter any appropriate order regarding the additional matter including providing for the stay, transfer, consolidation, or termination of any such matter.

37 C.F.R. § 42.222(a); *see also* 37 C.F.R. § 42.3(a) (permitting the Board to exercise exclusive jurisdiction within the Office over an involved application and patent during the proceeding).

The claims that are pending in the reissue application include the claims that are challenged in this proceeding.¹ The reissue claims have not been examined, and no Office actions have been entered. Neither party opposes a stay. Under the circumstances, the panel determines that a stay of the reissue proceeding would “secure the just, speedy, and inexpensive resolution” of this proceeding. *See* 37 C.F.R. § 42.1(b).

It is, therefore:

ORDERED that examination of reissue application 14/803,629, filed July 20, 2015, is stayed by the Board, pursuant to 37 C.F.R. § 42.3(a); and

FURTHER ORDERED that the all due dates in reissue application 14/803,629, filed July 20, 2015, are tolled.

¹ The '854 patent also is involved in IPR2015-01061. A copy of this Order will be entered in the record of that proceeding.

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