

Filed on behalf of Unified Patents Inc.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.
Petitioner

v.

VOXATHON, LLC
Patent Owner

IPR2016-01321
Patent 6,442,261

**JOINT MOTION TO TERMINATE
UNDER 35 U.S.C. § 317(a)**

Pursuant to 35 U.S.C. § 317(a), Petitioner Unified Patents Inc. (“Unified”) and Voxathon, LLC (“Voxathon”) jointly request termination of the *Inter Partes* Review of U.S. Patent 6,442,261 in IPR2016-01321.

Petitioner and Patent Owner have entered into a written confidential settlement agreement that fully resolves all underlying disputes between the parties, including IPR2016-01321 against U.S. Patent 6,442,261. The Parties are concurrently filing a copy of the Settlement Agreement as EX1009 along with a request to treat it as confidential business information pursuant to 35 U.S.C. § 317(b). The undersigned represents that there are no other agreements, oral or written, between the parties made in connection with, or in contemplation of, the termination of the present proceeding and that EX1009 represents a true and accurate copy of the agreement between the parties that resolves the present proceeding.

On December 7, 2016, the Parties informed the Board of the settlement via e-mail and requested authorization to file a joint motion to terminate the proceeding with respect to both the Patent Owner and the Petitioner. As set forth in an e-mail dated December 8, 2016, the Board authorized the filing of the requested joint motion to terminate this proceeding as to both parties. Accordingly, Petitioner and Patent Owner

jointly request termination of the present proceeding.

Public policy favors terminating the present *inter partes* review proceeding. Congress and federal courts have expressed a strong interest in encouraging settlement in litigation. *See, e.g., Delta Air Lines, Inc. v. August*, 450 U.S. 346, 352 (1981) (“The purpose of [Fed. R. Civ. P.] 68 is to encourage the settlement of litigation.”); *Bergh v. Dept. of Transp.*, 794 F.2d 1575, 1577 (Fed. Cir. 1986) (“The law favors settlement of cases.”), *cert. denied*, 479 U.S. 950 (1986). The Federal Circuit places a particularly strong emphasis on settlement. *See Cheyenne River Sioux Tribe v. U.S.*, 806 F.2d 1046, 1050 (Fed. Cir. 1986) (noting that the law favors settlement to reduce antagonism and hostility between parties). And, the Board’s Trial Practice Guide stresses that “[t]here are strong public policy reasons to favor settlement between the parties to a proceeding.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 46,768 (Aug. 14, 2012).

Ending this IPR early promotes the Congressional goal of establishing a more efficient patent system by limiting unnecessary and counterproductive costs. *See Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents*, 77 Fed. Reg. 48,680 (Aug. 14, 2012). Permitting termination as to all parties provides certainty and fosters an

environment that promotes settlements, creating a timely, cost-effective alternative to litigation.

Additionally, termination of this IPR is appropriate as the Board has not reached an institution decision yet and has not “decided the merits of the proceeding.” *See, e.g.*, Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48768 (Aug. 14, 2012). Unified filed its petition for *inter partes* review on September 8, 2016. The Board has yet to act on the petition. The parties have now settled their dispute, and have reached agreement to terminate this *inter partes* review. The USPTO can conserve its resources through terminating the proceedings now, removing the need for the Board to further consider the arguments, to issue an Institution Decision, or to render a Final Decision. Furthermore, no other party’s rights will be prejudiced by the termination of this proceeding.

The district court litigations filed are all administratively closed and on appeal in *Voxathon LLC v. FCA US LLC et al.*, No. 16-614 (Fed. Cir. Filed Feb. 24, 2016). Therefore, Unified and Voxathon respectfully request termination of the *Inter Partes* Review IPR2016-01321 of U.S. Patent 6,442,261.

IPR2016-01321
Patent 6,442,261

Date: December 12, 2016

Respectfully submitted,

Jonathan Stroud

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