

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC. and AT&T SERVICES, INC.,
Petitioners,

v.

CONVERGENT MEDIA SOLUTIONS, LLC,
Patent Owner.

Case IPR2016-01814
Case IPR2017-01237
Patent 8,914,840 B2¹

Before JAMESON LEE, KEN B. BARRETT, and JOHN F. HORVATH,
Administrative Patent Judges.

HORVATH, *Administrative Patent Judge.*

ORDER

*Granting AT&T Services Joint Motion to Terminate
Granting Convergent Media Solutions Motion to Terminate
37 C.F.R. §42.72*

and

*Granting Request to Treat Settlement Documents
As Business Confidential Information
37 C.F.R. § 42.74(c)*

¹ Case IPR2017-01237 has been joined to Case IPR2016-01814

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I. INTRODUCTION

On June 5, 2017, AT&T Services, Inc. (“AT&T”) and Convergent Media Solutions, Inc. (“CMS”) jointly filed a motion to terminate Petitioner AT&T from IPR2017-01237 and IPR2016-01814, two proceedings which have been joined (Paper 16, “Joint Mot.”), and a request to treat settlement documents as Business Confidential Information (Paper 17, “Req.”). The same day, CMS filed an unopposed motion to terminate IPR2017-01237 and IPR2016-01814 in their entirety (Paper 18, “PO Mot.”). For the reasons discussed below, the joint motion to terminate AT&T from IPR2017-01237 and IPR2016-01814, and CMS’s unopposed motion to terminate these proceedings in their entirety are *granted*, and the parties’ joint request to treat settlement documents as Business Confidential Information is *granted*.

II. DISCUSSION

The parties’ joint motion to terminate requests termination of AT&T from IPR2017-01237 and IPR2016-01814 because the parties have settled their dispute regarding U.S. Patent No. 8,914,840 B2 (“the ’840 patent”) in the joined proceedings and in *Convergent Media Solutions, LLC v. AT&T Services, Inc.*, No. 3:15-cv-02156 (N.D. Tex) (“the District Court litigation”). Joint Mot., 1. CMS’s motion to terminate requests termination of IPR2017-01237 and IPR2016-01814 for the same reasons, and because with AT&T’s termination from the joined proceedings no Petitioner will remain in the joined proceedings. PO Mot., 2–3. CMS avers its motion to

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terminate IPR2017-01237 and IPR2016-01814 in their entirety is unopposed. *Id.* at 2. The parties aver they have filed a true and correct copy of their Settlement Agreement as an exhibit to the joined proceedings. Joint Mot., 1–2; *see also* Ex. 2002.

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 patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” These proceedings are at an early stage, and the Board has not reached a final decision on the merits. Therefore, the requirements for terminating AT&T from the joined proceedings are met, and AT&T is hereby terminated from IPR2017-01237 and IPR2016-01814.

Under 35 U.S.C. § 317(a), “If no petitioner remains in the inter partes review, the Office may terminate the review or proceed to a final written decision under section 318(a).” Netflix, Inc. was previously terminated from the joined proceedings. *See* Paper 15, 3. Therefore, given the termination of AT&T from the joined proceedings, the Board has discretion to terminate the joined proceedings. Under these circumstances, termination of the joined proceedings in their entirety is appropriate.

III. ORDER

It is hereby:

ORDERED that the Joint Motion to Terminate AT&T from IPR2017-01237 and IPR2016-01814 is *granted*;

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FURTHER ORDERED that CMS's motion to terminate IPR2017-01237 and IPR2016-01814 in their entirety is *granted*;

FURTHER ORDERED that the Joint Motion to Treat Settlement Agreement as Business Confidential Information is *granted*; and

FURTHER ORDERED that Exhibit 2002 ("Settlement Agreement") be maintained as Business Confidential Information and kept separate from the files of U.S. Patent No. 8,914,840 B2; and

FURTHER ORDERED that the joined proceedings IPR2017-01237 and IPR2016-01814 are *terminated* in their entirety.

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