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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.

Jakuta Diodes, LLC
Patent Owner

IPR2017-00379
Patent 6,079,854

**JOINT MOTION TO DISMISS AND
TERMINATE THE PROCEEDING UNDER 37 CFR 42.71(a)**

Pursuant to 37 CFR 42.71(a), Petitioner Unified Patents Inc. (“Unified”) and Patent Owner Jakuta Diodes LLC (“Jakuta”) jointly request termination of the *Inter Partes* Review of U.S. Patent 6,079,854 in IPR2017-00379.

Petitioner and Patent Owner have entered into a written confidential settlement agreement that fully resolves all underlying disputes between the parties, including IPR2017-00379 against U.S. Patent 6,079,854. The Parties are concurrently filing a copy of the Settlement Agreement as EX1017 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 EX1017 represents a true and accurate copy of the agreement between the parties that resolves the present proceeding.

On March 3, 2017, 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 March 6, 2017, 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 dismissing and terminating the present *inter partes* review petition. 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.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 46,768 (Aug. 14, 2012).

Dismissing this IPR petition and terminating review 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).

Additionally, dismissing of this IPR is appropriate as the Board has not yet “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 December 7, 2016. The Board has not yet made a decision on institution and the patent owner’s optional preliminary response is not yet due. No depositions have taken place and neither the Patent Owner nor the Petitioner have submitted any substantive briefing post-institution. The parties have now settled their dispute, and have reached agreement to dismiss this *inter partes* review petition and terminate its consideration. 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 related cases at the district court, which were previously listed in the mandatory notices, are either in the process of, or have all been, administratively terminated.

Therefore, Unified and Jakuta respectfully request termination of the *Inter Partes* Review IPR2017-00379 of U.S. Patent 6,079,854.

Date: March 6, 2017

Respectfully submitted,

Jonathan Stroud

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/s/ Obi Iloputaife

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