

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ADVANCED MICRO DEVICES, INC.
Petitioner

v.

BROADCOM CORPORATION
Patent Owner

CASE IPR2017-01183
U.S. PATENT NO. 7,720,294

JOINT MOTION TO DISMISS PETITION

Joint Motion to Dismiss Petition

The Board authorized the parties to file a joint motion to dismiss the Petition in this case on August 29, 2017. The parties agree that neither party will be prejudiced by the dismissal, that the dismissal is in the interests of efficiency and judicial and administrative economy. *See* 37 C.F.R. § 42.1(b). Accordingly, the parties hereby move for dismissal of the pending Petition.

I. BACKGROUND

On June 6, 2016, Patent Owner filed a complaint in U.S. district court alleging that Sony Corporation infringed several patents (including the '294 Patent) by virtue of Sony's inclusion of Petitioner's products into Sony's products. *See, Broadcom Corp. v. Sony Corp.*, Case. No. 8:16-cv-01052 (C.D. Cal.). Petitioner was not named as a party to that litigation, and was not served with a complaint. However, because Patent Owner's infringement theories addressed the functionality of Petitioner's products, Petitioner independently decided to file a Petition challenging the validity of the '294 Patent.

Patent Owner settled its litigation with Sony, and there is no other pending litigation in which Patent Owner alleges that any party infringes the '294 Patent based on the functionality of Petitioner's products. Accordingly, the parties conferred and agreed that it is in both parties' interest that the current Petition be

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dismissed given that there is no current dispute between the parties.¹ Ex. 1009.

II. ARGUMENT

In addition to both parties requesting that the Board grant this Motion to Dismiss, there are a number of other factors that weigh in favor of dismissing the pending Petition. First, the above-captioned IPR is in its preliminary phase. While Patent Owner has filed a preliminary response, the Board has yet to reach the merits and issue a decision on institution. In similar circumstances involving IPRs at such an early juncture, the Board has previously granted motions to dismiss using its authority under at least 37 C.F.R. §§ 42.5 and 42.71(a). *See, e.g., Samsung Elec. Co. LTD v. Nvidia Corp.*, IPR2015-01270, Paper 12 at pp. 3-4 (PTAB December 9, 2015) (dismissing Petition even over the patent owner's objection).

Second, dismissal of the Petition in the above-captioned IPR will preserve the Board's resources and the parties' resources. *See* 37 C.F.R. § 42.1(b). The requested dismissal would relieve the Board of the substantial time and resources required to consider the merits, issue an institution decision, and proceed through

¹ Although it is possible that, at some point in the future, Petitioner may file another Petition seeking *inter partes* review of the challenged patent, the parties do not currently anticipate this will occur.

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trial (if instituted) when there is no current dispute between the parties. Moreover, granting this Motion to Dismiss would relieve the parties of the substantial expense in preparing responses and replies, presenting expert testimony, conducting cross-examination, and participating in an oral hearing, when there is no current dispute between the parties. As such, it would be entirely proper for the Board to dismiss the pending Petition “at this early junction[] to promote efficiency and minimize unnecessary costs.” *Samsung*, IPR 2015-01270, Paper 12 at p. 4.

Lastly, dismissal of the Petition and termination of the above-captioned IPR is a just and fair result. Again, all parties here agree that neither party would be prejudiced by the dismissal. Moreover, the parties and the Board will benefit from preserving the resources that would otherwise be expended if this Motion is denied.

III. CONCLUSION

For at least these reasons, the parties respectfully request that the Board grant this joint motion to dismiss the pending Petition.

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Respectfully submitted,

Date: August 30, 2017 /Brian W. Oaks/
Brian W. Oaks (Reg. No. 44,981)
98 San Jacinto Blvd., Suite 1500
Austin, Texas 78701
Phone: (512) 322-2500
Facsimile: (512) 322-2501

ATTORNEY FOR PETITIONER
ADVANCED MICRO DEVICES, INC.

Date: August 30, 2017 /Daniel S. Young/
Daniel S. Young (Reg. No. 48,277)
SWANSON & BRATSCHEUN, LLC
8210 Southpark Terrace
Littleton, CO 80120
(303) 268-0066 (telephone)
(303) 268-0065 (facsimile)

ATTORNEY FOR PATENT OWNER
BROADCOM CORPORATION

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