

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ravin Crossbows, LLC
Petitioner,

v.

Precision Shooting Equipment, Inc.
Patent Owner

Inter Partes Review No.: IPR2017-01549
Patent No. 8,453,631

**JOINT MOTION OF PETITIONER AND PATENT OWNER TO
TERMINATE PROCEEDING PURSUANT TO 35 U.S.C. §317 AND 37
C.F.R. §42.74**

Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Honorable Justices:

Pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.74, and the Board's authorization dated October 13, 2017, Petitioner Ravin Crossbows, LLC and Venatics, Inc. ("Petitioner") and Patent Owner Precision Shooting Equipment ("Patent Owner") (collectively, the "Parties") jointly request termination of *Inter Partes* Review No. IPR2017-01549 pursuant to settlement. As there are no other petitioners in this proceeding and the proceeding is still at an early stage, the

Parties respectfully submit that termination of this proceeding is appropriate.

I. STATEMENT OF PRECISE RELIEF REQUESTED

Pursuant to 35 U.S.C. § 317(a), the Parties jointly request termination of *inter partes* review Case No. IPR2017-01549 pursuant to a settlement.

II. STATEMENT OF FACTS

On June 9, 2017, Petitioner filed a petition seeking *inter partes* review of the '631 patent in Case No. IPR2017-01549. On September 11, 2017, Patent Owner filed a preliminary response. The Board has not entered a decision regarding institution.

A joint motion to terminate generally must “(1) include a brief explanation as to why termination is appropriate; (2) identify all parties in any related litigation involving the patents at issue; (3) identify any related proceedings currently before the Office, and (4) discuss specifically the status of each such related litigation or proceeding with respect to each party to the litigation or proceeding.” *Heartland Tanning, Inc. v. Sunless, Inc.*, IPR2014-00018, Paper 26 at 2 (PTAB Jul. 28, 2014). Those factors are addressed below.

(1) **Brief Explanation:** Termination of this review is appropriate because the Parties have settled their dispute related to this petition for *inter partes* review.

(2) & (4) **Related Litigation:** On December 12, 2016, Patent Owner filed suit against Petitioner for infringement of U.S. Patent No. 8,453,631 (“the ‘631

patent) and related U.S. Patent No. 8,240,299 (“the ‘299 patent”). That suit is captioned *Precision Shooting Equipment, Inc. v. Ravin Crossbows, LLC*, Civil Action No. 16-cv-820-slc (W.D. Wis.). Termination of this review is appropriate because the Parties have settled their dispute and have agreed to dismissal of that lawsuit. A Stipulation For Dismissal was filed in the above-identified suit on October 16, 2017, requesting entry of an Order dismissing such suit, and all claims and counterclaims filed therein, with prejudice.

(3) Related Proceedings Before the Patent Office: On June 19, 2017, Petitioner filed a petition seeking *inter partes* review of the ‘299 patent, which is related to the ‘631 patent at issue in this proceeding. On September 19, 2017, Patent Owner filed a preliminary response. The Board has not entered a decision regarding institution of review of the ‘299 patent. The Parties are concurrently filing a joint motion to terminate the *inter partes* review proceeding for the ‘299 patent.

III. ARGUMENT

First, the parties are jointly requesting termination because they have reached a settlement as to all the disputes in this proceeding and as to the asserted claim of the ‘631 patent at issue in this proceeding. *See* 77 Fed. Reg. 48756, 48768 (Aug. 14, 2012) (“There are **strong public policy reasons to favor settlement** between the parties to a proceeding”) (emphasis added). Both

Congress and the 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. For example, it endorses the ability of parties to agree not to challenge validity as part of a settlement. *See Flex-Foot, Inc. v. CRP, Inc.*, 238 F.3d 1362, 1370 (Fed. Cir. 2001); *see also 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). Here, no public interest or other factors weigh against termination.

Second, Petitioner and Patent Owner have met the statutory requirement that they file a “joint request” to terminate before the Office “has decided the merits of the proceeding.” *See* 35 U.S.C. § 317(a). Under Section 317(a), an *inter partes* review shall be terminated upon such joint request “unless the Office has decided the merits of the proceeding before the request for termination is filed.” *Id.* The statute establishes no other preconditions. *See id.*

Third, Petitioner and Patent Owner have reached a Settlement Agreement to end their disputes in this proceeding and the underlying litigation. Pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b), the agreement between the Parties is in

writing, constitutes the entire understanding and agreement between the Parties, and a copy of the Settlement Agreement is submitted herewith as Exhibit R1019.

There are no other agreements, oral or written, between the parties made in connection with, or in contemplation of, the termination of this review.

In a separate motion filed concurrently herewith, the Parties jointly request that the Settlement Agreement filed as Exhibit R1019 be treated as “Business Confidential Information”, and be kept separate from the files of this proceeding in accordance with 35 U.S.C. § 371(b) and 37 C.F.R. § 42.74(c). No other such agreements, written or oral, exist between or among the parties. Petitioner further represents that it will no longer participate in this review even if the Board does not terminate this review.

Fourth, termination of these proceedings will conserve the Board’s resources and obviate the need for any more Board involvement in this matter.

IV. CONCLUSION

For the foregoing reasons, the Petitioner and Patent Owner respectfully request termination of the *inter partes* review of the ‘631 patent in Case No. IPR2017-01549.

Dated: October 16, 2017

Respectfully submitted,

/Marvin A. Glazer/
Marvin A. Glazer (Reg. No. 28,801)

/Jonathan D. Carpenter/
J. Derek Vandenburg (Reg. No. 32,179)

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