

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

ZSCALER, INC.  
Petitioner

v.

SYMANTEC CORPORATION,  
Patent Owner.

---

Case IPR2018-00136  
Patent No. 7,203,959

---

**UNOPPOSED MOTION TO DISMISS IPR2018-00136 PRE-INSTITUTION**

## **I. INTRODUCTION**

Petitioner Zscaler, Inc. moves to dismiss its IPR petition and terminate IPR2018-00136 regarding U.S. Patent No. 7,203,959 (“the ’959 patent”), as authorized by the Board on April 16, 2018. This motion is being made pre-institution. Patent Owner Symantec Corporation does not oppose this motion.

## **II. DISCUSSION**

### **A. Present IPR proceeding**

IPR2018-00136 is in its preliminary phase. Petitioner filed its Petition for *inter partes* review of the ’959 patent on October 30, 2017 (Paper No. 1). Patent Owner filed its Preliminary Response on February 9, 2018 (Paper No. 7). The Board has yet to reach the merits and issue a decision on institution.

### **B. Related litigation**

The ’959 patent is one of seven patents asserted by Patent Owner against Petitioner in a related litigation captioned *Symantec Corp. v. Zscaler, Inc.*, Case No. 17-cv-04426 (N.D. Cal.). That litigation remains pending in district court. On March 23, 2018, the district court granted Petitioner’s motion to dismiss the ’959 patent under 35 U.S.C. § 101. The ’959 patent therefore is no longer at issue in the related litigation.

**C. Requested relief**

There is no final settlement agreement between the parties. As to the '959 patent, however, there is no pending dispute between Petitioner and Patent Owner in the related litigation. As a result, Petitioner has proposed, and Patent Owner has agreed, not to expend further effort and resources on this proceeding. Accordingly, Patent Owner requests that the Board to dismiss the petition and terminate IPR2018-00136 to preserve both the Board's and the parties' resources, and to achieve an efficient and inexpensive resolution to this proceeding.

**III. CONCLUSION**

Petitioner respectfully requests that the Board dismiss Petitioner's pending IPR petition and terminate IPR2018-00136.

April 18, 2018

Respectfully submitted,

KEKER, VAN NEST & PETERS LLP

By: /s/ Leo L. Lam # 38,528

Leo L. Lam (Reg. No. 38,528)

633 Battery Street

San Francisco, CA 94111

Phone: 415-391-5400

Fax: 415-397-7188

*Attorney for Petitioner*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on April 18, 2018, a copy of the foregoing Motion to Terminate *Inter Partes* Review was served on the Patent Owner by email at the following email addresses:

Chad C. Walters

chad.walters@bakerbotts.com

Kurt M. Pankratz

kurt.pankratz@bakerbotts.com

James Williams

james.williams@bakerbotts.com

Harrison G. Rich

harrison.rich@bakerbotts.com

Clarke W. Stavinoha

clarke.stavinoh@bakerbotts.com

BAKER BOTTS LLP

2001 Ross Avenue, Suite 700

Dallas, TX 75201

/s/ Leo L. Lam, # 38,528 \_\_\_\_\_

Leo L. Lam (Reg. No. 38,528)