

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner,

v.

HYPERMEDIA NAVIGATION LLC,
Patent Owner.

Case IPR2018-01519
Patent 9,772,814

**JOINT MOTION TO TERMINATE PROCEEDING AND
JOINT REQUEST TO TREAT THE PARTIES' AGREEMENT (EX. 1024)
AS BUSINESS CONFIDENTIAL INFORMATION**

LIST OF EXHIBITS

No.	Description
1024	Agreement between Microsoft Corporation and Hypermedia Navigation LLC, signed September 17, 2018 (Business Confidential Information, to be kept separate)

I. STATEMENT OF RELIEF REQUESTED

Pursuant to authorization provided by the Board in a conference call of October 30, 2018, Patent Owner Hypermedia LLC (“Patent Owner”) and Petitioner Microsoft Corporation (“Petitioner”) (collectively, the “Parties”) through this paper jointly:

1. Move for termination of this proceeding, without prejudice to either Party, pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74; and
2. Request that the Agreement between the Parties (Ex. 1024) be treated as Business Confidential Information that shall be kept separate from the file of the involved patent, pursuant to 35 U.S.C. § 317(b), 37 C.F.R. § 42.74(c).

Prior to filing this motion, undersigned counsel for Petitioner obtained permission from undersigned counsel for Patent Owner to add his signature and file this motion and request jointly on behalf of the parties.

II. JOINT MOTION FOR TERMINATION

Petitioner filed its petition for *inter partes* review on August 10, 2018 (Paper 2). On September 17, 2018, the parties settled their dispute, and agreed to terminate this *inter partes* review and related *inter partes* reviews numbered Cases IPR2018-01537 and IPR2018-01518. On September 18, 2018, the undersigned counsel

contacted the Board by email seeking permission to file this motion and request. Also on September 18, 2018, a district court order dismissed Patent Owner's patent infringement lawsuit against Petitioner, with Patent Owner's claims dismissed with prejudice and Petitioner's defenses dismissed without prejudice. *See Hypermedia Navigation LLC v. Microsoft Corporation*, 4:18-cv-00670 (N.D. Cal.). There is no litigation contemplated in the foreseeable future between Patent Owner and Petitioner in view of the Agreement.

On October 30, 2018, the Board conducted a telephone conference during which Patent Owner was represented by counsel Mike Wach and Petitioner was represented by counsel Andrew Mason. During that conference call, the Board authorized the parties to file this joint motion and request.

Termination of these proceedings is proper at this stage because (a) the Board has not decided the merits of this proceeding, and (b) the Petitioner and Patent Owner are making this joint request under 35 U.S.C. § 317. *See also* Office Patent Trial Practice Guide, Section II (N) ("There are strong public policy reasons to favor settlement between the parties to a proceeding. The Board will be available to facilitate settlement discussions, and where appropriate, may require a settlement discussion as part of the proceeding. The Board expects that a proceeding will terminate after the filing of a settlement agreement, unless the Board has already

decided the merits of the proceeding. 35 U.S.C. 317(a), as amended, and 35 U.S.C. 327.”)

Pursuant to 37 C.F.R. § 42.74, a copy of the parties’ Agreement (Ex. 1024, business confidential information, for Board and parties only) is being filed concurrently with this motion and request.

For at least these reasons, termination of the *Inter Partes* Review is appropriate under 35 U.S.C. § 317 and 37 C.F.R. § 42.74.

III. JOINT REQUEST TO TREAT THE PARTIES’ AGREEMENT (EX. 1024) AS BUSINESS CONFIDENTIAL INFORMATION

The parties request, pursuant to 37 C.F.R. § 42.74(c), that the Agreement (Ex. 1024) be treated as confidential business information and kept separate under the Board’s default Protective Order. The Agreement lays out confidential terms agreed to by the parties in settling their differences regarding the challenged patent, and constitutes confidential information under the Board’s rules. *See* 37 C.F.R. § 42.54; Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,760 (Aug. 14, 2012). Accordingly, that Agreement has been filed for access by the “Parties and Board Only” and the Parties jointly submit that the Agreement should be treated as

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