

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TEXTRON INC.,  
Petitioner,

v.

NIVEL PARTS & MANUFACTURING CO., LLC,  
Patent Owner.

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PGR2017-00035  
PGR2017-00043  
Patent 9,481,265 B2

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Before JAMES A. TARTAL, TIMOTHY J. GOODSON, and  
JAMES J. MAYBERRY, *Administrative Patent Judges*.

MAYBERRY, *Administrative Patent Judge*.

DECISION<sup>1</sup>

Granting Updated Joint Motion to Terminate Proceeding

*35 U.S.C. § 317(a); 37 C.F.R. § 42.72*

Granting Updated Request to Treat Settlement Documents  
as Confidential Business Information

*35 U.S.C. § 317(b); 37 C.F.R. § 42.74(c)*

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<sup>1</sup> This Order addresses the same issue in the proceedings listed above. Therefore, we issue one Order to be filed in each proceeding. The parties, however, are not authorized to use this style of filing.

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Pursuant to our authorization, on January 19, 2017, the parties filed a Joint Motion to Terminate Proceeding (Paper 11<sup>2</sup>) and a Joint Request That Settlement Related Agreements be Treated as Business Confidential Information (Paper 12), seeking to terminate PGR2017-00035 and PGR2017-00043.<sup>3</sup> Pursuant to 37 C.F.R. § 42.74(b), the parties also filed a true copy of their written settlement agreement (Ex. 2008) in each of the proceedings. Ex. 2008 is entitled “Binding Term Sheet” and contemplates the parties executing a formal agreement.

On January 23, 2018, we informed the parties that we would not rule on the Joint Motion to Terminate Proceeding until they filed the formal agreement. On January 25, 2018, the parties filed an Updated Motion to Terminate Proceeding (Paper 13) and Updated Joint Request That Settlement Related Agreements be Treated as Business Confidential Information (Paper 14). Filed concurrent with these papers was a formal written settlement agreement (Ex. 2009).

In the Updated Joint Motion to Terminate, the parties indicate that they have reached an agreement regarding all of their disputes involving U.S. Patent No. 9,481,265 B2 (the “’265 patent”). Paper 13, 3. This settlement includes PGR2017-00035 and PGR2017-00043 and a co-pending district court case. *Id.* at 3. The parties certify that “there are no other

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<sup>2</sup> We cite to the record in PGR2017-00035. Similar documents were filed in each of the proceedings to which this Order applies.

<sup>3</sup> The parties filed separate Joint Motions to Terminate in PGR2017-00035 and PGR2017-00043. *See* PGR2017-00035, Paper 11; PGR2017-00043, Paper 9. These motions are identical except for certain details unique to each proceeding. *See id.*

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written or oral agreements or understandings, including any collateral agreements, between them” with respect to this settlement. *Id.* at 6.

Under 35 U.S.C. § 317(a), “[a]n *inter partes* review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” The parties indicate that, under the settlement agreement, Petitioner agrees to no longer participate in the proceedings. Paper 13, 4. The parties state that the Board has not reached the merits of the proceedings, as the Board just instituted trial in PGR-2017-00035 and the Board has yet to reach an institution decision in PGR2017-00043. *Id.* at 4, 5. The parties also indicate that terminating these proceedings will preserve the Board’s and parties’ resources. *Id.* at 4.

In view of the circumstances presented in this case, we agree that terminating these proceedings is proper at this time. Indeed, there are strong public policy reasons to favor settlement between the parties to a proceeding. *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). When, as here, we have not rendered a Final Written Decision on the merits, we generally expect that the proceeding will terminate after the filing of a settlement agreement. *See id.*

Based on the preceding, we determine that it is appropriate to terminate these proceedings without rendering a Final Written Decision as to the patentability of the challenged claims of the ’265 patent.

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Accordingly, it is:

ORDERED that the parties' requests that the settlement agreements (PGR2017-00035, Exs. 2008 and 2009; PGR2017-00043, Exs. 2006 and 2007) be treated as business confidential information and kept separate from the files of U.S. Patent No. 9,481,265 B2, under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), are *granted*; and

ORDERED that the Updated Joint Motions to Terminate these proceedings are *granted*, and these proceeding are hereby terminated.

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For PETITIONER:

Patrick A. Doody  
Bryan P. Collins  
PILLSBURY WINTHROP SHAW PITTMAN LLP  
patrick.doody@pillsburylaw.com  
bryan.collins@pillsburylaw.com

For PATENT OWNER:

Joel Weiss  
Edward M. Arons  
Jacob Baldinger  
WEISS & ARONS, LLP  
jweiss@weissarons.com  
earons@weissarons.com  
jbaldinger@weissarons.com