

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Apple Inc.
Petitioner

v.

Ancora Technologies Inc.
Patent Owner

Case CBM2016-00023
Patent 6,411,941

**JOINT MOTION TO TERMINATE WITH
REQUEST TO KEEP SEPARATE**

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

I. INTRODUCTION AND STATEMENT OF REQUESTED RELIEF

On April 25, 2016, the Board authorized the parties to jointly file a Motion to Terminate a covered business method (CBM) proceeding pending between the parties. Accordingly, Petitioner Apple Inc. (“Petitioner”) and Patent Owner Ancora Technologies, Inc. (“Patent Owner”) jointly move to terminate the above-captioned proceeding in view of the parties’ agreement to settle their disputes. Included with this Motion is a copy of the agreement that settled all claims between the parties. The parties also jointly request that the agreement be kept separate pursuant to 37 CFR § 42.74(c). As explained below, the parties respectfully submit that there is good cause for granting the motion to terminate and the request to keep separate.

II. BACKGROUND AND RELEVANT FACTS

On January 8, 2016, Petitioner filed a petition requesting CBM review of U.S. Patent No. 6,411,941 (the “Petition”). Patent Owner did not file a preliminary response. The Petition is currently pending before the Board for a decision on institution.

On April 13, 2016, the parties agreed to settle their respective claims against each other in a SETTLEMENT AND LICENSE AGREEMENT (“the

Agreement”) executed by the parties. A copy of the Agreement¹ is submitted herewith as Exhibit 1030. Pursuant to the terms of the Agreement, the parties have now dismissed all previously pending matters with the exception of this pending CBM proceeding.

The dismissed matters are listed below:

- *Ancora Techs., Inc. v. Apple, Inc.*, No. 4:11-cv-6357 (N.D. Cal.) (“Ancora I”), filed December 15, 2011; and
- *Ancora Techs., Inc. v. Apple, Inc.*, No. 4:15-cv-3659 (N.D. Cal.) (“Ancora II”), filed August 11, 2015.

III. LEGAL STANDARD

Pursuant to 37 C.F.R. § 42.20(c), the moving party has the burden to establish that it is entitled to the requested relief. As explained below, good cause exists for granting this motion, and the parties respectfully submit that they have carried their burden to establish that they are entitled to the relief sought herein.

¹ Pursuant to 37 CFR § 42.74(c), the parties jointly request that the Agreement filed as Exhibit 1030 be treated as business confidential information and kept separate from the files of the subject patent.

IV. GOOD CAUSE EXISTS FOR GRANTING THIS MOTION TO TERMINATE

This proceeding should be terminated because the parties have resolved their pending disputes and have agreed to refrain, to the extent permitted by law, from further participation in this proceeding. *See* Ex. 1030 at § 2.5.2. This proceeding also should be terminated because it is at its earliest stages before the Board has decided whether to institute the proceeding. Finally, judicial economy will be served by terminating this proceeding, as the Board will no longer be required to expend resources in deciding the issues raised in the Petition.

V. TREAT SETTLEMENT AGREEMENTS AS BUSINESS CONFIDENTIAL INFORMATION

Patent Owner and Petitioner hereby request that the settlement agreement (Exhibit 1030) be treated as business confidential information, be kept separate from the file of this CBM, and be made available only to Federal Government agencies on written request, or to any person on a showing of good cause pursuant to 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(c). The parties' request is consistent with the standards set forth in 35 U.S.C. § 327, which govern settlement of instituted reviews.

VI. CONCLUSION

Because the parties have demonstrated that good cause exists for granting this Motion, the parties respectfully request that the Board grant this Motion to Terminate with Request to Keep Separate.

Dated: April 25, 2016

Respectfully submitted,

By /Marc Lorelli/
John P. Rondini (Reg. No. 64,949)
John S. LeRoy (Reg. No. 48,158)
Mark A. Cantor (Reg. No. 30,614)
Marc Lorelli (Reg. No. 43,759)
Mark A. Jotanovic (Reg. No. 70,664)
Counsel for Patent Owner
Registration No 43,759
BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
(248) 358-4400

By /Diek Van Nort/
Diek Van Nort
Counsel for Petitioner
dvannort@mofocom
Registration No. 60,777
MORRISON & FOERSTER LLP
370 17th St., 42nd Floor
Denver, CO, 80202
Tel: (650) 813-5696

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.