

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

OPENTV, INC.,
Patent Owner.

Cases IPR2014-00252 (Patent 8,107,786 B2)
IPR2014-00267 (Patent 7,409,437 B2)
IPR2014-00269 (Patent 6,233,736 B1)

Before SALLY C. MEDLEY, JAMES T. MOORE, and JUSTIN BUSCH,
Administrative Patent Judges.

MEDLEY, *Administrative Patent Judge.*

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

Petitioner filed petitions for *inter partes* review of the three involved patents and Patent Owner filed preliminary responses. On June 24, 2014, we instituted trial for each case.

Case IPR2014-00252 (Patent 8,107,786 B2)

Case IPR2014-00267 (Patent 7,409,437 B2)

Case IPR2014-00269 (Patent 6,233,736 B1)

On January 12, 2015, the parties informed the Board that the parties have reached a settlement agreement. The parties seek authorization from the Board to file a joint motion to terminate the proceedings pursuant to 35 U.S.C. § 317.

An *inter partes* review has been instituted in each case. The Board does not have before it full briefing on the issues raised during each trial. Moreover, the Board has not entered a final written decision. Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement. *See, e.g.*, Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). The rule governing settlement indicates that any agreement between the parties made in connection with, or in contemplation of, the termination of a proceeding shall be in writing and filed with the Board. 37 C.F.R. § 42.74.

Based on the facts of these proceedings, the parties are authorized to file a joint motion to terminate in each proceeding, briefly explaining why termination is appropriate. Each joint motion also should update the Board as to the status of any other matters involving the patent at issue. The parties also must file, as an exhibit, a true copy of their settlement agreement to terminate the proceedings. A redacted version of the settlement agreement will not be accepted as a true copy of the settlement agreement. Any request that the agreement be treated as business confidential information and be kept separate from the files of the involved patent must be filed with the settlement agreement. 37 C.F.R. § 42.74(c). The parties are directed to FAQ G2 on the Board's website at <http://www.uspto.gov/ip/boards/bpai/prps.jsp> for instructions on how to file their settlement agreement as confidential (*e.g.*, uploading as "Parties and Board Only").

The joint motions to terminate and the settlement agreement shall be filed no later than January 20, 2015.

Case IPR2014-00252 (Patent 8,107,786 B2)

Case IPR2014-00267 (Patent 7,409,437 B2)

Case IPR2014-00269 (Patent 6,233,736 B1)

Accordingly, it is

ORDERED that the parties are authorized to file a separate joint motion to terminate in each proceeding;

FURTHER ORDERED that the joint motions are due no later than January 20, 2015;

FURTHER ORDERED that each joint motion shall be accompanied by a true copy of the settlement agreement as required by 37 C.F.R. § 42.74(b);

FURTHER ORDERED that the parties may request that the settlement agreement be treated as business confidential information as specified by 37 C.F.R. § 42.74(c);

FURTHER ORDERED that any confidential settlement agreement must be filed electronically via the Patent Review Processing System (PRPS) in accordance with the instructions provided on the Board's website (*e.g.*, uploading as "Parties and Board Only"); and

FURTHER ORDERED that the remaining DUE DATES in the proceedings are *vacated*.

Case IPR2014-00252 (Patent 8,107,786 B2)
Case IPR2014-00267 (Patent 7,409,437 B2)
Case IPR2014-00269 (Patent 6,233,736 B1)

PETITIONER:

Andrew Ehmke
andy.ehmke.ipr@haynesboone.com

Dustin Johnson
dustin.johnson.ipr@haynesboone.com

Scott Jarratt
scott.jarratt.ipr@haynesboone.com

PATENT OWNER:

Erika Arner
erika.arnier@finnegan.com

Joshua Goldberg
joshua.goldberg@finnegan.com

Russell Levine
russell.levine@kirkland.com

Eugene Goryunov
eugene.goryunov@kirkland.com