

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG ELECTRONICS, INC, LG ELECTRONICS U.S.A., INC.,
LG ELECTRONICS MOBILECOMM U.S.A., INC,
MICROSOFT MOBILE OY, MICROSOFT CORPORATION,
NOKIA INC, SONY CORPORATION,
SONY MOBILE COMMUNICATIONS (USA) INC.,
SONY MOBILE COMMUNICATIONS AB,
SONY MOBILE COMMUNICATIONS INC.,
SHARP CORPORATION,
and SHARP ELECTRONICS CORPORATION,
Petitioner,

v.

E-WATCH, INC.,
Patent Owner.

Case IPR2015-00404 (Patent 7,365,871)¹
Case IPR2015-00408 (Patent 7,643,871)

Before GREGG I. ANDERSON and MATTHEW R. CLEMENTS,
Administrative Patent Judges.

CLEMENTS, *Administrative Patent Judge.*

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

¹ This order addresses issues that are the same in all cases. We exercise our discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in subsequent papers.

On January 23, 2015, a telephone conference call was held between respective counsel for the parties, and Judges Anderson and Clements. The parties sought authorization to file a joint motion to terminate this proceeding as to Microsoft Mobile OY and Nokia Inc., on the basis that those entities have settled with Patent Owner. The parties also sought authorization to file a request to have the settlement agreement be treated as business confidential information under 37 C.F.R. § 42.74(c).

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). Any agreement or understanding between the parties made in connection with, or in contemplation of, the termination of a proceeding shall be in writing, and a true copy of the agreement shall be filed with the Board prior to termination. 37 C.F.R. § 42.74(b).

The Board indicated that filing of a joint motion to terminate this proceeding as to Microsoft Mobile OY and Nokia Inc. is authorized. The joint motion must specifically discuss the current status of related litigation between e-Watch, Inc., and Microsoft Mobile OY or Nokia Inc., such as *e-Watch, Inc. v. Nokia, Inc.*, 2:13-cv-01075 (E.D. Tex.), with respect to each party to that litigation.

The joint motion to terminate as to Microsoft Mobile OY and Nokia Inc. must be accompanied by a true copy of the settlement agreement in connection with the termination of that proceeding, as required by 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b). A redacted version of the settlement agreement is not a true copy of the settlement agreement. Counsel for the

IPR2015-00404 (Patent 7,365,871)

IPR2015-00408 (Patent 7,643,871)

parties indicated that they intend to file a confidential true copy of the settlement agreement.

With regard to having the true copy of the settlement agreement treated as business confidential information and kept separate from the patent file(s) under 37 C.F.R. § 42.74(c), the parties must file the true copy of the confidential settlement agreement electronically via the Patent Review Processing System (PRPS) in accordance with the instructions provided on the Board's website (uploading as "Parties and Board Only"). The parties are directed to FAQ G2 on the Board's website page at <http://www.uspto.gov/ip/boards/bpai/prps.jsp> for instructions on how to file their settlement agreement as confidential.

ORDER

Accordingly, it is:

ORDERED that the parties are authorized to file a joint motion to terminate this proceeding as to Microsoft Mobile OY and Nokia Inc. on the basis that Patent Owner has settled with Microsoft Mobile OY and Nokia Inc.;

FURTHER ORDERED that the joint motion must be accompanied by a true copy, labeled as an exhibit, of the settlement agreement as required by 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b);

FURTHER ORDERED that in the joint motion the parties may request that the settlement agreement be treated as business confidential and kept separate from the underlying patent file, as provided in 37 C.F.R. § 42.74(c); and

IPR2015-00404 (Patent 7,365,871)

IPR2015-00408 (Patent 7,643,871)

FURTHER ORDERED that any confidential settlement agreement must be filed electronically via PRPS in accordance with the instructions provided on the Board's website (uploading as "Parties and Board Only").

IPR2015-00404 (Patent 7,365,871)

IPR2015-00408 (Patent 7,643,871)

For PETITIONER:

Timothy Riffe

Brian Livedalen

FISH & RICHARDSON P.C.

riffe@fr.com

IPR18768-0065IP1@fr.com

For PATENT OWNER:

Robert C. Curfiss

bob@curfiss.com

Ryan Schultz

rmschultz@rkmc.com

Thomas DeSimone

trdesimone@rkmc.com