

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SERVICENOW, INC.,

Petitioner,

v.

HEWLETT PACKARD ENTERPRISE COMPANY,

Patent Owner.

Case No. IPR2015-00523

U.S. Patent No. 6,321,229

**SERVICENOW, INC.'S AND HEWLETT PACKARD ENTERPRISE
COMPANY'S JOINT MOTION TO TERMINATE PROCEEDING
PURSUANT TO 35 U.S.C. § 317(A)**

Pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72, ServiceNow, Inc. (“Petitioner”) and Hewlett Packard Enterprise Company (“Patent Owner”) jointly move for termination of the *inter partes* review of U.S. Patent No. 6,321,229 (“the ‘229 patent”), Case No. IPR2015-00523, with the United States Patent and Trademark Office, and request that the Settlement Agreement be treated as business confidential information pursuant to 35 U.S.C. § 317(b). This Joint Motion was authorized by the Board pursuant to its email dated March 9, 2016.

Petitioner filed its petition for *inter partes* review on January 5, 2015. The *inter partes* review was instituted on July 21, 2015. The parties have settled their dispute with respect to the above-captioned *inter partes* review and the related litigation, and have reached agreement to terminate this *inter partes* review. The Settlement Agreement between the parties has been made in writing and is dated March 4, 2016. A true copy of the Settlement Agreement in accordance with 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b) is being submitted concurrently herewith as Exhibit 2005. There are no collateral agreements or understandings made in connection with, or in contemplation of, the termination of this *inter partes* review.

Submitted concurrently herewith is a request by Petitioner and Patent Owner that the Settlement Agreement be treated as business confidential information, be kept separate from the file of the involved patents, 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. § 317(b) and 37 C.F.R. § 42.74(c).

Patent Owner filed a patent infringement lawsuit against Petitioner, alleging infringement of the '229 patent and seven other patents. The lawsuit is captioned *Hewlett Packard Enterprise Company v. ServiceNow, Inc.*, Case No. 14-cv-00570, before the United States District Court for the Northern District of California. The parties have agreed to the dismissal with prejudice of all claims in this lawsuit, including those relating to the '229 patent, and the parties have filed a Stipulation and Proposed Order for Dismissal with Prejudice. The lawsuit has now been dismissed with prejudice. There is no other litigation or proceeding involving the '229 patent, and no litigation or proceeding is contemplated in the foreseeable future in view of the Settlement Agreement.

Termination of this *inter partes* review is appropriate because the Board has not yet decided the merits of this proceeding. There are no other petitioners in this *inter partes* review, and no final written decision on the merits has been entered. In addition, no dispute remains between the Patent Owner and the Petitioner involving the '229 patent or any related patents, and the litigation between the parties involving the '229 patent is being dismissed with prejudice as part of the settlement. Termination of this *inter partes* review will conserve the time and resources of the parties and the Board. For at least these reasons, termination of

the *inter partes* review is proper under 35 U.S.C. § 317(a) and 37 C.F.R. § 42.74(a). Should this joint motion to terminate be denied, Petitioner would not continue to participate in this *inter partes* review proceeding.

As stated in 35 U.S.C. § 317(a) and 37 C.F.R. § 42.73(d), because Petitioner and Patent Owner jointly request this termination, no estoppel under 35 U.S.C. § 315(e) shall attach to the Petitioner.

Respectfully Submitted,

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