

Paper No. \_\_\_\_\_  
Filed: May 26, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TOYOTA MOTOR CORPORATION,  
Petitioner,

v.

INNOVATIVE DISPLAY TECHNOLOGIES LLC,  
Patent Owner.

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IPR2015-00857  
Patent 7,384,177

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**JOINT MOTION TO TERMINATE PROCEEDING**

## INTRODUCTION

Petitioner Toyota Motor Corporation (Toyota) and Patent Owner Innovative Display Technologies LLC (IDT) have entered into a settlement agreement that resolves all underlying disputes between the parties, including the *inter partes* review proceeding IPR2015-00857, against U.S. Patent No. 7,384,177, currently before the Board.

The Board authorized the parties to file a joint motion to terminate this proceeding in a hearing held on May 22, 2015. Accordingly, the parties jointly move to terminate this proceeding pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74.

The Board requested that the parties briefly explain why termination is appropriate and provide the Board with a status update of any other matters involving the '177 Patent. The Board also requested submission of a true copy of the parties' agreement. The Parties consider the agreement Highly Confidential Business Information. During the hearing on May 22, 2015, the Board also authorized filing of a motion to hold the agreement confidential pursuant to 37 C.F.R. § 42.74(c).

## THE SETTLEMENT AGREEMENT

The parties have entered into a Confidential Settlement Agreement (the "Agreement") settling their dispute involving eight (8) U.S. Patents, including U.S.

Patent No. 7,384,177. The parties are filing a copy of the Agreement with this Joint Motion to Terminate Proceeding in IPR2015-00857, as Exhibit 1027. In addition, the parties have filed a request to treat the Agreement as Confidential Business Information under 37 C.F.R. § 42.74(c). As part of the Agreement, the related district court litigation, *Innovative Display Technologies LLC v. Toyota Motor Corp.*, Case No. 2:14-cv-200-JRG (ED TX.) has been dismissed. (Exhibit 1028).

The parties also agreed to jointly request termination of all pending *inter partes* reviews filed by Petitioner Toyota against patents owned by IDT.

### STATUS OF RELATED PROCEEDINGS

#### A. District Court Proceeding

The following is the only related proceeding between the parties:

District Court Case	U.S. Patent Nos.	Status
<i>Innovative Display Technologies LLC v. Toyota Motor Corp. Inc.</i> , Case No. 2:14-cv-200-JRG (ED TX.)	6,508,563 6,886,956 7,434,974 8,215,816 7,384,177 7,300,194 7,404,660 6,755,547	Unopposed motion to dismiss without prejudice filed May 19, 2015 and Dismissal Order entered May 20, 2015.

There are no other district court proceedings related to U.S. Patent No. 7,384,177 between the parties.

***B. United States Patent Office Proceedings***

The following related *inter partes* review proceedings filed by Petitioner Toyota are currently before the United States Patent and Trademark Office:

<b>IPR Case Number</b>	<b>U.S. Patent No.</b>
IPR2015-00828	6,508,563
IPR2015-00829	6,886,956
IPR2015-00831	7,434,974
IPR2015-00832	7,434,974
IPR2015-00834	8,215,816
IPR2015-00835	7,384,177
IPR2015-00843	7,300,194
IPR2015-00855	7,404,660
IPR2015-00857	7,384,177
IPR2015-00895	6,508,563
IPR2015-00896	6,886,956
IPR2015-00897	7,404,660

As noted above, the parties have concurrently filed joint requests to terminate each of the above *inter partes* reviews.

***C. Foreign Proceedings***

There are no foreign proceedings related to U.S. Patent No. 7,384,177 between the parties.

**WHY TERMINATION IS APPROPRIATE**

Termination of this proceeding is appropriate at this stage in the proceeding in view of the Agreement. The Agreement ends all patent disputes between the

parties, including this proceeding. Moreover, as shown above, the Agreement resulted in the dismissal of the underlying civil action.

Both Congress and the federal courts have expressed a strong interest in encouraging settlement in litigation. *See, e.g., Delta Air Lines, Inc. v. August*, 450 U.S. 346, 352 (1981) (“The purpose of [Fed. R. Civ. P.] 68 is to encourage the settlement of litigation.”); *Bergh v. Dept. of Transp.*, 794 F.2d 1575, 1577 (Fed. Cir. 1986) (“The law favors settlement of cases.”), *cert. denied*, 479 U.S. 950 (1986). The U.S. Court of Appeals for the Federal Circuit also places a particularly strong emphasis on settlement. *See Cheyenne River Sioux Tribe v. U.S.*, 806 F.2d 1046, 1050 (Fed. Cir. 1986) (noting that the law favors settlement to reduce antagonism and hostility between parties). Moreover, the Board generally expects that a proceeding will terminate after the filing of a settlement. *See, e.g., Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 46,768 (Aug. 14, 2012).

Maintaining this proceeding after Petitioner Toyota’s settlement with Patent Owner IDT would discourage future settlements by removing a primary motivation for settlement: eliminating litigation risk by resolving the parties’ disputes and ending the pending proceedings between them. For patent owners, litigation risks include the potential for an invalidity ruling against their patents. If a patent owner knows that an *inter partes* review will likely continue regardless of settlement, it creates a strong disincentive for the patent owner to settle.

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