

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WAVES AUDIO, LTD

Petitioner

v.

ANDREA ELECTRONICS
CORPORATION

Patent Owner

Case: IPR2016-00459

U.S. Patent No. 6,363,345

**PARTIES' JOINT MOTION TO TERMINATE PROCEEDING
PURSUANT TO 35 U.S.C. § 317**

Pursuant to 35 U.S.C. § 317(a), Petitioner, Waves Audio, Ltd. (“Waves”) and Patent Owner, Andrea Electronics Corp. (“Andrea”), jointly request termination of this *inter partes* review of U.S. Patent No. 6,363,345, Case No. IPR2016-00459.

I. Termination of This Proceeding Is Appropriate

Termination of this proceeding by the PTAB is appropriate. This case is still in the preliminary proceeding stage, the *inter partes* review trial has not yet been instituted, and no motions or petitions are outstanding in this case. Termination with respect to Petitioner is proper under 35 U.S.C. § 317(a) because the parties are jointly requesting termination and the Office has not yet “decided the merits of the proceeding before the request for termination is filed.” Further, on March 3, 2016, Waves and Andrea entered into a Settlement Agreement (a true copy of which is filed concurrently as Ex. 2001). Thus, termination of this proceeding is appropriate because (i) the case is in the preliminary proceeding stage, (ii) the parties have settled their dispute, and (iii) the parties have agreed to jointly move to terminate this *inter partes* review proceeding.

II. Status of Related Matters

Andrea has asserted the ‘345 Patent against multiple companies in the Eastern District of New York and the International Trade Commission (“ITC”). The ITC Investigation, *Certain Audio Processing Hardware and Software and Products Containing Same*, Inv. No. 337-TA-949, filed on February 9, 2015, against Realtek Semiconductor Corp., Acer Inc., Acer America Corp., ASUS Computer International, ASUSTeK Computer Inc.,

Dell Inc., Hewlett Packard Co, Lenovo Holding Co., Inc., Lenovo (United States) Inc., Toshiba Corp., and Toshiba America Information Systems, Inc., is currently pending.

The following cases were filed on July 25, 2014, all of which are stayed pending the resolution of the ITC Investigation.

- *Andrea Electronics Corporation v. Lenovo Group Ltd. et al*, 2:14-cv-04489
- *Andrea Electronics Corporation v. Toshiba Corporation et al*, 2:14-cv-04492

The following cases asserting the '607 Patent were filed on January 14, 2015 and are also stayed pending the resolution of the ITC Investigation.

- *Andrea Electronics Corporation v. Dell Inc.*, 2:15-cv-00209
- *Andrea Electronics Corporation v. ASUSTeK Computer Inc. et al*, 2:15-cv-00214

III. Settlement Agreement

As required by 35 U.S.C. § 317(b), a true and correct copy of the Settlement Agreement is being filed with the Patent Office. The parties desire that the Settlement Agreement be maintained as business confidential information under 37 C.F.R. §42.74(c) and a separate joint request to that effect is being filed on this date. In accordance with 35 U.S.C. § 317(a), no

estoppel under 35 U.S.C. § 315(e) shall attach to Waves because Waves and Andrea jointly request termination.

Therefore, the parties respectfully request termination of this proceeding.

Respectfully submitted,

Date: March 8, 2016

By:

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