

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ASML NETHERLANDS B.V., EXCELITAS TECHNOLOGIES CORP.,  
AND QIOPTIQ PHOTONICS GMBH & CO., KG.,  
Petitioner,

v.

ENERGETIQ TECHNOLOGY, INC.,  
Patent Owner.

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Cases IPR2016-00554, -00555, -00556  
Patent 8,309,943<sup>1</sup>

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Before SALLY C. MEDLEY, JONI Y. CHANG, and BARBARA A.  
PARVIS, Administrative Patent Judges.

PARVIS, *Administrative Patent Judge.*

JUDGMENT

Termination of Proceedings before Institution  
*37 C.F.R. § 42.73*

On June 6, 2016, Petitioner, ASML Netherlands B.V., Excelitas Technologies Corp., and Qioptiq Photonics GmbH & Co. KG, and Patent Owner, Energetiq Technology, Inc. filed a Joint Motion to Terminate in each

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<sup>1</sup> This Decision addresses the same issue in the above-identified cases and the cases identified in the Appendix. We exercise our discretion to issue one Order to be docketed in each case. The parties, however, are not authorized to use this style of filing in subsequent papers, without prior authorization.

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of the above-identified proceedings involving U.S. Patent No. 8,309,943. Paper 9.<sup>2</sup> The parties also filed a true copy of their Written Settlement Agreement, made in connection with the termination of the proceedings, in accordance with 37 C.F.R. § 42.74(b). Ex. 1118. Additionally, the parties jointly requested that their Written Settlement Agreement, including written attachments, filed as Exhibit 1118, be treated as business confidential information. Paper 9, 6. For the reasons set forth below, the Joint Motions to Terminate and the Joint Request are granted.

In their Joint Motions to Terminate, the parties indicate that they have settled all of their disputes involving the following patents: U.S. Patent Nos. 7,435,982; 7,786,455; 8,309,943; 8,525,138; 8,969,841; 9,048,000; and 9,185,786. Paper 9, 5. In particular, the parties have agreed to settle and dismiss their related district court case (*Energetiq Tech., Inc. v. ASML Netherlands B.V.*, No. 1:15-cv-10240-LTS (D. Mass.)) and terminate the International Trade Commission investigation (*In the Matter of Certain Laser-Driven Light Sources, Subsystems Containing Laser-Driven Light Sources, and Products Containing Same*, Inv. 337-TA-983 (U.S. International Trade Commission)). *Id.* at 1. Furthermore, the parties also have submitted Motions to Terminate all other *inter partes* reviews requested by Petitioner for the aforementioned patents. *Id.* The proceedings not yet instituted involving the above-referenced patents are listed in the Appendix of this Decision.

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<sup>2</sup> For the purpose of clarity and expediency, we treat IPR2016-00554 as representative, and all citations are to IPR2016-00554 unless otherwise noted.

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Each of the proceedings addressed in this Decision is in an early stage. Petitioner filed a Petition in each of the above-identified proceedings. However, we have not determined yet whether an *inter partes* review should be instituted.

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). Upon consideration of the facts before us, we determine that it is appropriate to terminate the above-identified proceedings as to both parties, and enter judgment.

#### ORDER

For the foregoing reasons, it is:

ORDERED that the parties' joint request in each proceeding that their settlement agreement (identified by Exhibit number in the Appendix) be treated as business confidential information, be kept separate from the patent file, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 37 C.F.R. § 42.74(c), is *granted*;

FURTHER ORDERED that the joint motions to terminate in each of proceedings listed in the Appendix are *granted*, and each of the proceedings is terminated with respect to both Petitioner and Patent Owner; and

FURTHER ORDERED that a copy of this Judgment be entered into the files of each of the proceedings listed in the Appendix.

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PETITIONER:

Donald R. Steinberg  
David L. Cavanaugh  
Michael H. Smith  
Brian Seeve  
WILMER CUTLER PICKERING HALE & DORR LLP  
[Don.Steinberg@wilmerhale.com](mailto:Don.Steinberg@wilmerhale.com)  
[David.Cavanaugh@wilmerhale.com](mailto:David.Cavanaugh@wilmerhale.com)  
[MichaelH.Smith@wilmerhale.com](mailto:MichaelH.Smith@wilmerhale.com)  
[Brian.Seeve@wilmerhale.com](mailto:Brian.Seeve@wilmerhale.com)

PATENT OWNER:

Steven M. Bauer  
Joseph A. Capraro Jr.  
Gerald Worth  
PROSKAUER ROSE LLP  
[PTABMattersBoston@proskauer.com](mailto:PTABMattersBoston@proskauer.com)  
[jcapraro@proskauer.com](mailto:jcapraro@proskauer.com)  
[gworth@proskauer.com](mailto:gworth@proskauer.com)

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APPENDIX

| IPR Case No.  | Exhibit No. of Settlement Agreement |
|---------------|-------------------------------------|
| IPR2016-00554 | Ex. 1118                            |
| IPR2016-00555 | Ex. 1317                            |
| IPR2016-00556 | Ex. 1217                            |
| IPR2016-00565 | Ex. 1135                            |
| IPR2016-00566 | Ex. 1229                            |
| IPR2016-00570 | Ex. 1120                            |
| IPR2016-00575 | Ex. 1217                            |
| IPR2016-00576 | Ex. 1317                            |
| IPR2016-00578 | Ex. 1417                            |
| IPR2016-00579 | Ex. 1517                            |
| IPR2016-00583 | Ex. 1319                            |
| IPR2016-00584 | Ex. 1419                            |
| IPR2016-00585 | Ex. 1513                            |
| IPR2016-00688 | Ex. 1235                            |
| IPR2016-00689 | Ex. 1336                            |
| IPR2016-00771 | Ex. 1039                            |
| IPR2016-00774 | Ex. 1241                            |
| IPR2016-00775 | Ex. 1339                            |
| IPR2016-00776 | Ex. 1139                            |