

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD and
SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioner,

v.

PERSONALIZED MEDIA COMMUNICATIONS, L.L.C.,
Patent Owner.

Case IPR2017-00288 Patent 7,747,217 B1
Case IPR2017-00289 Patent 7,752,649 B1
Case IPR2017-00290 Patent 7,752,649 B1
Case IPR2017-00291 Patent 7,752,650 B1
Case IPR2017-00292 Patent 7,856,649 B1
Case IPR2017-00293 Patent 8,675,775 B1
Case IPR2017-00294 Patent 8,711,885 B1
Case IPR2017-00295 Patent 8,711,885 B1

Before KARL D. EASTHOM, LYNNE E. PETTIGREW, GEORGIANNA
W. BRADEN, JOHN F. HORVATH, ROBERT L. KINDER, and
AMANDA F. WIEKER, *Administrative Patent Judges*.

PETTIGREW, *Administrative Patent Judge*.

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

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In each of these cases, the Board issued an order authorizing the parties to file a joint motion to terminate the proceeding and a request for confidential treatment of settlement papers pursuant to 37 C.F.R.

§ 42.74(c). *E.g.*, IPR2017-00288, Paper 6 (Feb. 8, 2017). Subsequently, on February 16, 2017, the parties filed in each proceeding a Joint Motion to Terminate the Proceeding (*e.g.*, IPR2017-00288, Paper 7), a Joint Request to Treat Settlement Documents as Business Confidential Information (*e.g.*, IPR2017-00288, Paper 8), a “Settlement Agreement” (*e.g.*, IPR2017-00288, Paper 9), and a “Redacted Settlement Agreement” (*e.g.*, IPR2017-00288, Paper 10). Thereafter, counsel for Petitioner sent an email requesting that (1) only redacted copies of the settlement be entered by the Board, (2) copies of the redacted settlement agreement remain sealed as Business Confidential Information, and (3) the unredacted copies be expunged from the record. Petitioner indicated that Patent Owner does not oppose this request.

As stated in the Board’s order dated February 8, 2017, a redacted version of the settlement agreement will not be accepted as a true copy of the settlement agreement, which is required by 37 C.F.R.

§ 42.74(c). Furthermore, a settlement agreement should be filed as an exhibit, not as a paper. Finally, we note that the Joint Request to Treat Settlement Documents as Business Confidential Information refers to maintaining the confidentiality of a concurrently submitted “settlement agreement, letter agreement, and term sheet,” yet it does not appear that the

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parties submitted a letter agreement and term sheet in addition to the settlement agreement.

In view of the above, the parties are authorized to file (A) only a true copy of the settlement agreement, which should be filed as an exhibit, and (B) either (i) the referenced letter agreement and term sheet, if they exist and are part of the settlement between the parties, also to be filed as exhibits, or (ii) a corrected Joint Request to Treat Settlement Documents as Business Confidential Information removing reference to the letter agreement and term sheet if they are not part of the settlement between the parties. The parties are not authorized to file as an exhibit a redacted copy of the settlement agreement or, if filed, redacted copies of the letter agreement and term sheet.

After the parties file the authorized documents, we will order expungement of the Settlement Agreement and Redacted Settlement Agreement that were filed as papers rather than exhibits, and if a corrected Joint Request to Treat Settlement Documents as Business Confidential Information is filed, we will order expungement of the originally filed Request.

Should the parties need additional guidance, they may request a conference call with the Board and provide dates and times when counsel for both parties are available for a call.

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It is:

ORDERED that the parties are authorized to file as an exhibit in each proceeding only a true copy of the parties' settlement agreement, no later than February 28, 2017;

FURTHER ORDERED that the parties are not authorized to file a redacted copy of the settlement agreement; and

FURTHER ORDERED that the parties are authorized to file in each proceeding, no later than February 28, 2017, either (i) the referenced letter agreement and term sheet, if they exist and are part of the settlement between the parties, also to be filed as exhibits, or (ii) a corrected Joint Request to Treat Settlement Documents as Business Confidential Information, if the letter agreement and term sheet are not part of the settlement between the parties.

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