

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZTE (USA) INC.,

Petitioner,

v.

Papst Licensing GmbH & Co. KG

Patent Owner.

Case No. IPR2017-00415¹

Patent No. 6,895,449 B2

**JOINT REQUEST TO FILE SETTLEMENT AGREEMENT
AS BUSINESS CONFIDENTIAL INFORMATION AND TO MAINTAIN
SAID AGREEMENT SEPARATE FROM THE PUBLIC FILE PURSUANT
TO 35 U.S.C. § 317(b) AND 37 C.F.R. § 42.74(c)**

¹ Case IPR2017-01617 has been joined with this proceeding.

Pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) and the Board's authorization of January 2, 2018, Petitioner ZTE (USA), Inc. and Patent Owner Papst Licensing GmbH & Co. KG jointly request to treat as business confidential information the true and complete copy of the Settlement Agreement (Confidential Exhibit 2012) between the parties, as referenced in the parties' Joint Motion to Terminate with Respect to ZTE (USA), Inc and Papst Licensing GmbH & Co. KG.

35 U.S.C. § 317(b) provides that:

At the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents, and shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause.

Likewise, 37 C.F.R. § 42.74(c) provides that:

A party to a settlement may request that the settlement be treated as business confidential information and be kept separate from the files of an involved patent or application. The request must be filed with the settlement. If a timely request is filed, the settlement shall only be available:

(1) To a Government agency on written request to the Board; or

(2) To any other person upon written request to the Board to make the settlement agreement available, along with the fee specified in § 42.15(d) and on a showing of good cause.

The present request, which is being filed contemporaneously with the Settlement Agreement, is timely and in accordance with the foregoing authority. Therefore, parties request that the Settlement Agreement (Confidential Exhibit 2012) (i) be treated as business confidential information, (ii) be maintained separate from the publicly available file of the involved patent, and (iii) shall be made available only to Federal Government agencies on written request, or to persons showing good cause on written request, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

Date: January 8, 2018

Respectfully submitted,

By: /s/ Scott R. Miller

Scott R. Miller
Registration No. 32,276
Darren Franklin
Registration No. 51,701
SHEPPARD MULLIN RICHTER &
HAMPTON, LLP
333 South Hope Street – 43rd Floor
Los Angeles, CA 90071
(213) 620-1780

Attorneys for Petitioner ZTE (USA), Inc.

By: /s/ Gregory S. Donahue

Gregory S. Donahue
Registration No. 47,531
DiNovo Price LLP
7000 North MoPac Expressway
Suite 350
Austin, TX 78731
(512) 539-2626

Anthony L. Meola
Registration No. 44,936
Schmeiser, Olsen & Watts, LLP
2500 Westchester Avenue, Suite 210
Purchase, NY 10577
(914) 825-1039

Jason A. Murphy
Registration No. 63,423
Victor J. Baranowski
Registration No. 64,998
Arlen L. Olsen
Registration No. 37,543
Schmeiser, Olsen & Watts, LLP
22 Century Hill Drive, Suite 302
Latham, NY 12110
(518) 220-1850

Attorneys for Patent Owner