

Joint Motion to Terminate, IPR2017-01039  
U.S. Patent 7,231,379

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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UNIFIED PATENTS INC.  
Petitioner

v.

GUADA TECHNOLOGIES LLC  
Patent Owner

IPR2017-01039  
U.S. Patent 7,231,379

**JOINT MOTION TO DISMISS AND TERMINATE THE PETITION  
FOR *INTER PARTES* REVIEW OF U.S. PATENT 7,231,379  
UNDER 37 C.F.R. 42.71(A)**

Pursuant to 37 C.F.R. 42.71(a), Petitioner Unified Patents Inc. (“Unified”) and Patent Owner Guada Technologies LLC (“Guada”) jointly requests dismissal and termination of the petition for *Inter Partes* Review of U.S. Patent 7,231,379 in IPR2017-01039.

Petitioner and Patent Owner have entered into a written confidential settlement agreement that fully resolves this matter. The Parties are concurrently filing a copy of the settlement agreement as EX1027 along with a request to treat it as confidential business information pursuant to 35 U.S.C. § 317(b). The undersigned represents that there are no other agreements, oral or written, between the parties made in connection with, or in contemplation of, the termination of the present proceeding and that EX1027 represents a true and accurate copy of the agreement between the parties that resolves the present proceeding.

On June 19, 2017, the Parties informed the Board of the settlement via e-mail and requested authorization to file a joint motion to terminate the petition with respect to both the Patent Owner and the Petitioner. As set forth in an e-mail dated June 20, 2017, the Board authorized the filing of the requested joint motion to terminate this petition. Accordingly, Petitioner and Patent Owner jointly request termination of the present proceeding.

Public policy favors terminating the present petition for *inter partes* review. Congress and 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 Federal Circuit 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). And, the Board’s Trial Practice Guide stresses that “[t]here are strong public policy reasons to favor settlement between the parties to a proceeding.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 46,768 (Aug. 14, 2012).

Ending this petition for IPR early promotes the Congressional goal of establishing a more efficient patent system by limiting unnecessary and counterproductive costs. *See Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents*, 77 Fed. Reg. 48,680 (Aug. 14, 2012). Permitting termination provides certainty and fosters an environment that

promotes settlements, creating a timely, cost-effective alternative to litigation.

Additionally, termination of this petition for IPR is appropriate as the Board has not yet “decided the merits of the proceeding.” *See, e.g.*, Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48768 (Aug. 14, 2012). Unified filed its petition for *inter partes* review on March 21, 2017. The parties have now settled their dispute, and have reached agreement to terminate the petition. The USPTO can conserve its resources through terminating now, removing the need for the Board to further consider the arguments, to issue an Institution Decision, and to render a Final Decision. Furthermore, no other party’s rights will be prejudiced by termination of this petition.

There are three district court litigations asserting the patent-at-issue currently pending: *Guada Technologies LLC v. 7Digital Inc.*, Case No. 2:16-cv-1147 (E.D. Texas); *Guada Technologies LLC v. eMusic.com Inc.*, Case No. 2:16-cv-1150 (E.D. Texas); and *Guada Technologies LLC v. Smule Inc.*, Case No. 2:16-cv-1158 (E.D. Texas). The cases against 7Digital Inc. and Smule Inc. are set for a scheduling conference on July 19, 2017; however, no dates for a claim construction hearing or trial have been set. No scheduling

conference or case schedule has been set for the case against eMusic.com Inc.

Therefore, Unified and Guada respectfully request termination of the petition for *Inter Partes* Review of U.S. Patent 7,231,379 (IPR2017-01039).

Date: June 21, 2017

Respectfully submitted,



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Unified Patents Inc.

*/s/ David Bennett*

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Direction IP Law  
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