

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HTC CORPORATION, HTC AMERICA, Inc.
ZTE CORPORATION, and ZTE (USA), Inc.,
Petitioners

v.

CELLULAR COMMUNICATIONS EQUIPMENT LLC,
Patent Owner.

Case IPR2017-01508 (Patent 8,385,966 B2)
Case IPR2017-01509 (Patent 9,037,129 B2)¹

Before BRYAN F. MOORE, JENNIFER S. BISK, and
GREGG I. ANDERSON, *Administrative Patent Judges*.

ANDERSON, *Administrative Patent Judge*.

DECISION

*Joint Motion to Terminate with Respect to HTC Corporation and HTC
America, Inc.*

37 C.F.R. § 42.72

¹ The parties are not authorized to use this caption. The parties should use the caption appropriate to the specific case.

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IPR2017-01509 (Patent 9,037,129)

INTRODUCTION

On November 26, 2017, we instituted an *inter partes* review in both IPR2017-01508 and IPR2017-01509 (“’1508 IPR” and “’1509 IPR,” respectively), both captioned HTC Corporation, HTC America, Inc. (“HTC”), ZTE Corporation, and ZTE (USA), Inc. (“ZTE”) (collectively, “Petitioners”) versus Cellular Communications Equipment LLC (“Patent Owner”). In both proceedings, a final hearing was held on July 10, 2018. The Board has not issued a final written decision. Per our email dated July 18, 2018, we authorized the filing of a motion to terminate and to treat the settlement documents as confidential as to HTC. *See* Ex. 3001. Per our authorization, on July 20, 2018, Petitioners and Patent Owner filed a Joint Motion to Terminate Petitioners Pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74 as to HTC only (“Joint Motion”). ’1508 IPR, Paper 19; ’1509 IPR, Paper 20. Concurrent with the filing of the Joint Motion, a true copy of Release Agreement and a Patent License and License Option Agreement (’1508 IPR, Exs. 2014 and 2015; ’1509 IPR, Exs. 2005 and 2006) were filed. Also concurrent with the filing of the Joint Motion, a Joint Request to Treat Agreement as Business Confidential Information Under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) was filed. ’1508 IPR, Paper 20; ’1509 IPR, Paper 21.

Under 35 U.S.C. § 317(a), “[a]n *inter partes* review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” The grant of the motion to terminate will not result in the termination of the instant proceeding, because ZTE remains a Petitioners. The parties are

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reminded that the Board is not a party to the settlements, and may identify independently any question of patentability. 37 C.F.R § 42.74(a).

Generally, however, the Board expects that a proceeding will terminate as to settling parties 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). The Board is persuaded that, under these circumstances, it is appropriate to terminate this proceeding only as to HTC. *See* 37 C.F.R. § 42.72.

ORDER

Accordingly, it is:

ORDERED that the joint motion to terminate this proceeding with respect to HTC is GRANTED, and this proceeding is hereby terminated only as to HTC; and

FURTHER ORDERED that the parties' Joint Request to Treat Agreement as Business Confidential Information Under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) relating to '1508 IPR Exhibits 2014 and 2015 and '1509 IPR Exhibits 2005 and 2006, is GRANTED, and the specified exhibits shall be: (i) treated as business confidential information; (ii) kept separate from the files of U.S. Patent Nos. 8,385,966 and 9,037,129; (iii) kept confidential from any third party (including from the non-settling Petitioner ZTE); (iv) filed as "BOARD ONLY," and (v) made available only to Federal Government agencies on written request, or to any person on a showing of good cause, under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

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