

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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AMAZON.COM, INC. and AMAZON WEB SERVICES, INC.,  
Petitioners,

v.

AVAGO TECHNOLOGIES GENERAL IP (SINGAPORE) PTE. LTD.,  
Patent Owner.

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Case IPR2017-01816  
U.S. Patent 5,870,087

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**JOINT MOTION BY PETITIONERS AND PATENT OWNER  
TO DISMISS**

Pursuant to 35 U.S.C. § 314(b) and 37 C.F.R. § 42.71(a), Petitioners Amazon.com, Inc. and Amazon Web Services, Inc. (“Amazon”) and Patent Owner Avago Technologies General IP (Singapore) Pte. Ltd. (“Avago”) jointly request dismissal of the petition for *inter partes* review of U.S. Patent No. 5,870,087 (“the ‘087 Patent”), Case No. IPR2017-01816. The Board authorized the parties to file this Joint Request via email on October 24, 2017.

### **I. Dismissal Is Appropriate**

Dismissal of this petition by the Board is appropriate. Amazon filed its petition on July 18, 2017. Avago has not filed its Preliminary Response to Amazon’s petition (and the time for filing such a preliminary response has not elapsed), and the Board has not made an institution determination nor conducted an oral hearing.

Amazon hereby withdraws its request for *inter partes* review of the challenged claims of the ‘087 Patent in IPR2017-01816, and requests that the Board dismiss IPR2017-01816. Avago joins Amazon’s request.

Motions to dismiss based on stipulation are routinely granted prior to an institution determination and the oral hearing timeframe.<sup>9</sup> Accordingly, good cause

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<sup>9</sup> See, e.g., *Sony Corp. v. Avago Techs. General IP (Singapore) Pte. Ltd.*, IPR2017-00520 (PTAB June 22, 2017) (Paper 10 at 3); *Unified Patents Inc. v. Shipping &*

exists to dismiss this proceeding based on stipulation as the Board has not yet conducted an oral hearing or otherwise resolved the merits of the petition.

Moreover, the parties have reached an agreement to settle all of their disputes concerning the '087 Patent. In the pending district court litigation regarding the '087 Patent, *Broadcom Corp. v. Amazon.com, Inc.*, Case 8:16-cv-01774-JVS-JCG (C.D. Cal.), the Court dismissed the case upon notification from the parties of a broader settlement of disputes between Broadcom and Amazon.<sup>10</sup> As such, the parties have reached agreement to dismiss this *inter partes* review petition.

As set forth in 35 U.S.C. § 317 and 37 C.F.R. § 42.74, the agreement has been made in writing, and a true and correct copy has been filed as Exhibit 1016 to this motion as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b)-(c).

The parties hereby represent that Exhibit 1016 represents the only agreement made in connection with, or in contemplation of, the dismissal of this proceeding. All such agreements have been filed with the Board as required by § 317(b) and 37

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*Transit, LLC*, IPR2017-00361 (PTAB Mar. 31, 2017) (Paper 9 at 3); *Microsemi Corp. v. e.Digital Corp.*, IPR2015-01120 (PTAB Aug. 19, 2015) (Paper 16 at 3).

<sup>10</sup> Ex. 1015 (Dkt. No. 125).

C.F.R. § 42.74(b). There are no other “collateral agreements referred to in such agreement or understanding, made in connection with, or in contemplation of, the termination of an inter partes review under this section,” as set forth in 35 U.S.C. § 317(b).

The ‘087 Patent is at issue in the district court action entitled *Funai Electric Co., Ltd. et al v. LSI Corporation et al.*, United States District Court, Northern District of California, Case No. 16-cv-01210-BLF.

## II. Conclusion

Amazon and Avago respectfully request dismissal of the petition for *inter partes* review of U.S. Patent No. 5,870,087, Case No. IPR2017-01816.

Respectfully Submitted,

Date: October 25, 2017

/Joseph F. Edell/  
Joseph F. Edell (Reg. No. 67,625)  
Lead Counsel for Petitioners

Date: October 25, 2017

/Jason S. Angell/  
Jason S. Angell (Reg. No. 51,408)  
Lead Counsel for Patent Owner

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on October 25, 2017, a copy of the foregoing **Joint Motion by Petitioners and Patent Owner to Dismiss** was electronically served to Patent Owner at the correspondence email addresses of record as follows:

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