

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner

v.

BRADIUM TECHNOLOGIES LLC,
Patent Owner

Case IPR2017-01817
U.S. Patent No. 9,635,136 B2

PAPER NO. 6

JOINT MOTION TO DISMISS THE PETITION

Pursuant to 37 C.F.R. § 42.71(a) and the authorization received from the Board by e-mail dated October 16, 2017, Patent Owner Bradium Technologies LLC (“Bradium”) and Petitioner Microsoft Corporation’s (“Microsoft”) jointly request dismissal of the petition for *inter partes* review, which is directed to U.S. Patent No. 9,635,136.

Dismissal and termination of this review is appropriate because the parties have resolved their dispute regarding U.S. Patent No. 9,635,136 and have reached an agreement to, among other things, terminate this review. Ex. 2001, Settlement Agreement (submitted as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c)). “Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement.” *Oracle Corp. v. Cmty. United IP, LLC*, CBM2013-00015, Paper 13 (July 25, 2013) (citing Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48765–66 (Aug. 14, 2012)).

The petition for review was filed on July 19, 2017. No review has yet been instituted. Termination at this early juncture promotes efficiency, conserves Board resources and minimizes unnecessary costs.

On October 15, 2017, the parties advised the Board that they have reached a settlement, and sought authorization to file a joint motion to terminate this proceeding. The Board authorized the filing of a Joint Motion to Dismiss the Petition on October 16, 2017.

Per the Board's October 16, 2017 e-mail, a true copy of the parties' confidential written settlement agreement is being filed as an exhibit contemporaneously with this joint motion. The settlement agreement is being filed for access by the "Parties and Board Only." The parties desire that the settlement agreement be maintained as business confidential information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), and a separate joint request for such is being filed contemporaneously.

Pursuant to the Board's October 16, 2017 e-mail, the parties certify that there are no collateral agreements or understandings made in connection with, or in contemplation of, the termination of the proceeding. *See* 37 C.F.R. § 42.74(b).

The Board's e-mail advised that this motion "must update the Board concerning the status of any litigation or proceeding, including, but not limited to, proceedings in the U.S. Patent and Trademark Office involving the subject patent." Upon joint request of the parties, the litigation *Bradium Technologies LLC v. Microsoft Corp.*, 15-031-RGA (D. Del.) was dismissed by the United States District Court for the District of Delaware on October 18, 2017. (*See* Case No. 15-031-RGA, D.I. 129.) The parties are not aware of other litigation or proceedings involving U.S. Patent No. 9,635,136.

The Board's e-mail advised that this motion must "advise the Board whether any litigation or proceeding involving the subject patent is contemplated in the

foreseeable future.” Bradium has made no determination as to whether the subject patent will be the subject of any other litigation or proceedings in the foreseeable future.

Respectfully submitted,

Dated: October 19, 2017

/s/ Chris J. Coulson

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