

Paper No. _____
Filed: July 6, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEALS BOARD

NFL ENTERPRISES LLC,
Petitioner

v.

OPENTV, INC.
Patent Owner

Case No.: IPR2017-02092
Patent No. 6,233,736

JOINT MOTION TO TERMINATE PROCEEDING

INTRODUCTION

Petitioner NFL Enterprises LLC and Patent Owner OpenTV, Inc., through its affiliation with Nagravision S.A., have entered into a settlement agreement that resolves all underlying disputes between the parties, including this proceeding. In an Order dated June 28, 2018 (Paper 15), the Board authorized the parties to file a joint motion to terminate and a joint request that the settlement agreement be treated as business confidential information. As required by the Board, the parties are submitting a true copy of the settlement agreement (Ex. 2001) along with this joint motion to terminate and a joint request that the settlement agreement be treated as business confidential information.

STATUS OF PROCEEDINGS

The parties have filed a joint stipulation to dismiss the related litigation, *Nagravision SA et al v. NFL Enterprises, LLC*, No. 2:17-cv-03919 (C.D. Cal.). There are no other pending proceedings involving the subject patent.

RELIEF REQUESTED

Petitioner and Patent Owner jointly request that the Board terminate this proceeding in its entirety. Termination is appropriate at this stage in view of the agreement that the parties are filing. The agreement ends all patent disputes between the parties, including this proceeding.

Both Congress and the 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 [Federal Rule of Civil Procedure] 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 U.S. Court of Appeals for the Federal Circuit also 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). Moreover, the Board generally expects that a proceeding will terminate after the filing of a settlement. *See, e.g., Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 46,768 (Aug. 14, 2012).

Maintaining this proceeding after Petitioner’s settlement with Patent Owner would discourage future settlements by removing a primary motivation for settlement: eliminating litigation risk by resolving the parties’ disputes and ending the pending proceedings between them. For patent owners, litigation risks include the potential for an invalidity ruling against their patents. If a patent owner knows that an *inter partes* review or covered business method review will likely continue regardless of settlement, it creates a strong disincentive for the patent owner to settle.

CONCLUSION

For the foregoing reasons, Petitioner and Patent Owner jointly request that the Board terminate this proceeding in its entirety.

Dated: July 6, 2018

Jointly Submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **JOINT MOTION TO TERMINATE PROCEEDING** was served via e-mail on counsel of record for the Petitioner on July 6, 2018 at the following addresses:

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Dated: July 6, 2018

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