

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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OLYMPUS CORPORATION, OLYMPUS CORPORATION OF THE  
AMERICAS, and OLYMPUS AMERICA INC.,  
Petitioner,

v.

MAXELL LTD.,  
Patent Owner.

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IPR2018-00904 (Patent 8,339,493 B2) IPR2018-00906 (Patent 7,995,897 B2)  
IPR2018-00908 (Patent 9,100,604 B2) IPR2018-00909 (Patent 9,100,604 B2)  
IPR2018-00910 (Patent 8,059,177 B2) IPR2018-00911 (Patent 7,457,529 B2)

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Before LYNNE E. PETTIGREW, MINN CHUNG,  
TERRENCE W. McMILLIN, and JOHN A. HUDALLA, *Administrative  
Patent Judges*.<sup>1</sup>

PER CURIAM.

ORDER

*Granting* Petitioner's Authorized Unopposed Motion to Dismiss Proceeding,  
*Granting* Authorized Joint Request to File Agreement As  
Business Confidential Information  
*37 C.F.R. § 42.74*

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<sup>1</sup> This is not an order from an expanded panel of the Board. Judges Pettigrew, Chung, and McMillin are paneled on IPR2018-00908. Judges Chung, McMillin, and Hudalla are paneled on IPR2018-00904, IPR2018-00906, IPR2018-00909, IPR2018-00910, and IPR2018-00911.

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## I. INTRODUCTION

On December 18, 2018, Olympus Corporation, Olympus Corporation of the Americas, and Olympus America Inc. (collectively “Petitioner”) filed Motions to Dismiss the above-referenced proceedings with prejudice (collectively “Motions”). Paper 7, 1–4.<sup>2,3</sup> As indicated in the Motions, the Board authorized the filing of the Motions during a conference call on November 30, 2018. *Id.* at 1. Petitioner further represents that Patent Owner does not oppose the Motions. *Id.* Along with the Motions, Petitioner and Patent Owner (collectively referred to as “the Parties”) filed copies of a Patent License Agreement (“Agreement”) (Ex. 1018)<sup>4</sup>, as well as Joint Requests to File Agreement as Business Confidential Information pursuant to 35 U.S.C. § 317(b) (collectively “Joint Requests”) (Paper 8, 1–2).<sup>5,6</sup>

## II. DISCUSSION

In its Motions, Petitioner represents that the Parties have resolved their dispute as to the patents in the above-identified *inter partes* review proceedings. Paper 7, 1–2. Further, in the Joint Requests, the Parties: (a)

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<sup>2</sup> For purposes of expediency, we cite to the paper filed in IPR2018-00904. Similar papers were filed in IPR2018-00906 (Paper 9), IPR2018-00908 (Paper 7), IPR2018-00909 (Paper 7), IPR2018-00910 (Paper 7), and IPR2018-00911 (Paper 7).

<sup>3</sup> The pages of the respective Motions are unnumbered.

<sup>4</sup> The parties also filed a copy of the Agreement in IPR2018-00906 (Ex. 1010), IPR2018-00908 (Ex. 1018), IPR2018-00909 (Ex. 1018), IPR2018-00910 (Ex. 1018), and IPR2018-00911 (Ex. 1010).

<sup>5</sup> The Parties filed similar Joint Requests in IPR2018-00906 (Paper 10), IPR2018-00908 (Paper 8), IPR2018-00909 (Paper 8), IPR2018-00910 (Paper 8), and IPR2018-00911 (Paper 8).

<sup>6</sup> The pages of the respective Joint Requests are also unnumbered.

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IPR2018-00908 (Patent 9,100,604 B2) IPR2018-00909 (Patent 9,100,604 B2)  
IPR2018-00910 (Patent 8,059,177 B2) IPR2018-00911 (Patent 7,457,529 B2)

request that the Agreement be treated as business confidential information and be kept separate from the files of the respective patents involved in the above-identified *inter partes* proceedings; (b) represent that the Agreement resolves all currently pending Patent Office and District Court proceedings between the Parties involving the above-identified patents at issue; and (c) represent that the filed copies of the Agreement are true copies. Paper 8, 1–2.

These proceedings are at an early stage, and we have not yet decided whether to institute a trial in any of these proceedings. In view of the early stage of these proceedings and the settlement between the Parties, we determine that good cause exists to dismiss these proceedings with prejudice.

Further, after reviewing the Agreement between the Parties, we find that the Agreement contains confidential business information regarding the terms of settlement. We determine that good cause exists to treat the Agreement between the Parties as business confidential information pursuant to 37 C.F.R. § 42.74(c).

This Order does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

### III. ORDER

Accordingly, for the reasons discussed above, it is:

ORDERED that Petitioner's Motions to Dismiss with prejudice are *granted*, and IPR2018-00904, IPR2018-00906, IPR2018-00908, IPR2018-00909, IPR2018-00910, and IPR2018-00911 are *dismissed with prejudice*;

FURTHER ORDERED that the Joint Requests to File the Settlement Agreement as Business Confidential Information are *granted*, and the

IPR2018-00904 (Patent 8,339,493 B2) IPR2018-00906 (Patent 7,995,897 B2)  
IPR2018-00908 (Patent 9,100,604 B2) IPR2018-00909 (Patent 9,100,604 B2)  
IPR2018-00910 (Patent 8,059,177 B2) IPR2018-00911 (Patent 7,457,529 B2)

Settlement Agreement shall be kept separate from the files of Patent 8,333,493, Patent 7,995,897, Patent 9,100,604, Patent 8.059,177, and Patent 7,457,529 and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 37 C.F.R. § 42.74(c).

**PETITIONER:**

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