

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SONY CORPORATION and POLYCOM, INC.,  
Petitioner,

v.

REALTIME DATA LLC,  
Patent Owner.

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Case IPR2018-01413  
Patent 9,769,477 B2

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Before GEORGIANNA WITT BRADEN and KEVIN W. CHERRY,  
*Administrative Patent Judges.*

BRADEN, *Administrative Patent Judge.*

DECISION  
*Joint Motion to Terminate Proceeding*  
*37 C.F.R. § 42.72*

## INTRODUCTION

In an email dated November 5, 2018, Sony Corporation and Polycom, Inc. (respectively “Sony” and “Polycom,” collectively “Petitioners”) and Realtime Data, LLC (“Patent Owner”) requested authorization to file a Joint Motion to Terminate this proceeding (“Motion”) and a Joint Request to Keep Separate (“Joint Request”) a confidential settlement agreement to be filed concurrently. Ex. 3001. On November 7, 2018, we authorized the filing of the Motions. *Id.*

On November 7, 2018, the parties filed the Motion (Paper 8) and Sony and Polycom filed separate Joint Requests (Papers 9 and 10 respectively). On November 7, 2018, a separate true copy of a RELEASE TERMS agreement for Sony and for Polycom were filed under the “Board Only” designation. Exs. 2003 and 2004 respectively.

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 will result in the termination of this proceeding. The parties are 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). Patent Owner has not filed a Preliminary Response and we have not instituted trial. This proceeding is at a very early stage. The Board

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is persuaded that, under these circumstances, it is appropriate to terminate this proceeding. *See* 37 C.F.R. § 42.72.

ORDER

Accordingly, it is:

ORDERED that the joint motion to terminate the proceeding is GRANTED, and the proceeding is hereby terminated as to all parties; and

FURTHER ORDERED that the parties' joint request to keep separate Exhibits 2003 and 2004 is GRANTED, and the specified exhibits shall be: (i) treated as business confidential information; (ii) kept separate from the files of U.S. Patent No. 9,762,907; (iii) kept confidential from any third party; (iv) filed as "BOARD ONLY" as accessible only to the Board and no other party to this proceeding; 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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