UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION and HP INC.,
Petitioners,

v.

SYNKLOUD TECHNOLOGIES, LLC,
Patent Owner.

Inter Partes Review No. IPR2020-01270
U.S. Patent No. 9,219,780

JOINT MOTION TO TERMINATE PROCEEDING WITH RESPECT TO PETITIONER MICROSOFT PURSUANT TO 35 U.S.C. § 317 AND 37 C.F.R. § 42.74

Pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74, Petitioner Microsoft Corporation and Patent Owner Synkloud Technologies LLC jointly request to terminate Microsoft's participation in the *Inter Partes* Review of U.S. Patent No. 9,219,780 ("the '780 Patent"), Case No. IPR2020-01270. For the avoidance of doubt, only Microsoft is requesting to be terminated from this proceeding pursuant to this joint motion—Petitioner HP still remains a party to the proceeding. Microsoft and Synkloud are also jointly requesting termination of Microsoft from the following related proceedings, each of which are pending following institution: IPR2020-01031, IPR2020-01032, IPR2020-01269, IPR2020-01271.

I. Background

On November 2, 2021, the parties entered into a settlement agreement with regard to the patents at issue in these proceedings. Microsoft and SynKloud now desire that Microsoft withdraw from this review and request its termination as to Microsoft. On November 5, 2021, the parties jointly requested authorization to file a motion to terminate and to file a request to treat the settlement agreement as confidential information. On the November 8, 2021, the Board granted authority to file a Joint Motion to Terminate and Joint Request that the Settlement Agreement be Treated as Business Confidential Information pursuant to 37 C.F.R. § 42.74.

II.   Termination of Microsoft is Appropriate

Termination is appropriate because Petitioner Microsoft desires to abandon this contest, and Patent Owner does not oppose termination of the proceeding with respect to Microsoft. 35 U.S.C. § 317(a) ("An inter partes review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner"). The parties have also filed a true copy of the written settlement agreement made in connection with the request for termination, in accordance with 35 U.S.C. § 317(a) and 37 C.F.R. § 42.74(c). Finally, termination of Microsoft from this proceeding encourages settlement consistent with judicial economy and preference.

The settlement agreement between Microsoft and Synkloud is in writing and a true and correct copy of the agreement as Exhibit 1042, is filed concurrently with the present motion as business confidential information under 35 U.S.C. § 317(b). Pursuant to 37 C.F.R. § 42.74(c), a Joint Request that the Settlement Agreement be Treated as Business Confidential Information is submitted herewith.

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."). The Federal Circuit

also places a particularly strong emphasis on settlement. *See Flex-Foot, Inc. v. CRP, Inc.*, 238 F.3d 1362, 1370 (Fed. Cir. 2001) ("Upholding the terms of settlement agreements encourages patent owners to agree to settlements and promotes judicial economy."); *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).

III. Conclusion

For the foregoing reasons, the parties jointly and respectfully request termination of the proceeding with respect to Petitioner Microsoft in Case No. IPR2020-01270.

Dated: November 11, 2021

Respectfully Submitted,

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