UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SONY MOBILE COMMUNICATIONS AB, SONY MOBILE COMMUNICATIONS INC., SONY ELECTRONICS INC., and SONY CORPORATION,

Petitioners,

v.

ANCORA TECHNOLOGIES INC.,

Patent Owner.

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U.S. Patent No. 6,411,941 B1

Case No. IPR2021-00663

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

I. INTRODUCTION

The parties jointly request termination of the *inter partes* review of U.S. Patent No. 6,411,941 ("the '941 patent"), Case No. IPR2021-00663, pursuant to 35 U.S.C. § 317(a), 37 C.F.R. § 42.74, and the Board's March 22, 2021 Order (Paper 6). This motion is joined by all parties, including Petitioners Sony Mobile Communications AB, Sony Mobile Communications Inc., Sony Electronics Inc. and Sony Corporation, and Patent Owner Ancora Technologies, Inc.

Terminating this proceeding is within the Board's discretion. Exercising that discretion here would conserve judicial resources and promote the strong policy reasons that favor settlement.

II. PUBLIC POLICY FAVORS TERMINATING THIS PROCEEDING

The Board has discretion to terminate *inter partes* review proceedings after the parties file a settlement agreement. 35 U.S.C. § 317(a); *see also* 37 C.F.R. § 42.72. "There are strong public policy reasons to favor settlement between the parties to a proceeding." PTAB Consolidated Trial Practice Guide, at 86 (Nov. 2019), available at https://www.uspto.gov/TrialPracticeGuideConsolidated. The Board therefore terminates proceedings "after the filing of a settlement agreement, unless the Board already has decided the merits of the proceeding." *Id.*

Termination of this proceeding is proper for the following reasons. This proceeding is at an early stage, and the Board has not decided the merits of the proceeding. 35 U.S.C. § 317(a); PTAB Consolidated Trial Practice Guide, at 86. The Board issued its institution decision on June 10, 2021 (Paper 17), which is preliminary. *See St. Jude Med., Cardiology Div., Inc. v. Volcano Corp.*, 749 F.3d 1373, 1375–76 (Fed. Cir. 2014) ("the Director's decision whether to institute a proceeding" differs from a "decision with respect to patentability"). Patent Owner discovery has only just begun and Ancora has not yet presented evidence, including expert testimony. No motions are outstanding in this proceeding. Each of these facts supports terminating this proceeding.

The parties jointly request termination. The parties reached the mutual decision to settle this proceeding and their related district court litigation regarding the '941 patent. The parties agree that settlement of their disputes promotes efficiency and will minimize unnecessary costs. Terminating this proceeding will consequently preserve judicial resources and enables the parties to minimize the cost of litigation.

No public interest or other factors weigh against termination of this proceeding.

The parties executed a confidential settlement agreement to terminate this proceeding. The settlement agreement is being submitted concurrently herewith. (*See* Ex. 2026.) The parties certify that there are no collateral agreements or understandings made in connection with, or in contemplation of, the termination of the proceeding. In accordance with 35 U.S.C. § 317 and 37 C.F.R. § 42.74(b), also submitted concurrently herewith is a joint request that the settlement agreement be treated as business confidential information, be kept separate from the file of the involved patent, and be made available only to the Federal Government agencies on written request, or to any person on showing of good cause under 35 U.S.C. § 317 and 37 C.F.R. § 42.74(c).

For all of the above reasons, the Board should terminate this proceeding to promote settlement and minimize unneeded expenditure of the Board's resources.

III. CONCLUSION

For at least the foregoing reasons, the parties jointly request immediate and complete termination of this proceeding.

Dated: July 12, 2021

Respectfully submitted,

/ Marc Lorelli /

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