UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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HEWLETT PACKARD ENTERPRISE CO., ARUBA NETWORKS, LLC,
CISCO SYSTEMS, INC., AND APPLE INC.,
Petitioner,

v.

BILLJCO, LLC.,
Patent Owner.

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IPR2022-00420 (Patent 10,477,994 B2)
IPR2022-00426 (Patent 8,761,804 B2)[1]

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Before THU A. DANG, ROBERT J. WEINSCHENK and
GARTH D. BAER, *Administrative Patent Judges.*

BAER, *Administrative Patent Judge.*

TERMINATION
Settlement as to Petitioner Cisco Systems, Inc.
Prior to Institution of Trial
35 U.S.C. § 317; 37 C.F.R. § 42.74

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[1] This Order addresses issues that are the same in each of the
above-captioned preliminary proceedings. We exercise our discretion to
issue one order for all of the above-captioned preliminary proceedings. The
proceedings have not been consolidated, and the parties are not authorized to
use this caption format.

I. INTRODUCTION

In each of the above-captioned preliminary proceedings, Petitioner Cisco Systems, Inc. ("Cisco") and Patent Owner BillJCo, LLC ("Patent Owner") (collectively "the Parties"), with the Board's prior authorization, filed a Joint Motion to Terminate *Inter Partes* Review as to Petitioner Cisco Systems, Inc. (Paper 12, "Joint Motion") and a Joint Motion to Treat Settlement Information as Business Confidential Information and Keep Separate (Paper 13, "Joint Request").[2] In support of each Joint Motion, the Parties filed a copy of a written "CONFIDENTIAL SETTLEMENT AND LICENSE AGREEMENT." Ex. 1999 ("Settlement Agreement").

II. DISCUSSION

In each Joint Motion, the Parties "jointly request termination of *inter partes* review ("IPR") of the pending case with respect to Cisco." Joint Motion 2.[3] The Parties state that "[t]he dispute between Cisco and Patent Owner has been resolved pursuant to a written agreement (the "Settlement Agreement") that resolves the dispute." *Id.* Also, "[f]or the avoidance of doubt, the Parties state that the IPR will continue with respect to Petitioners Apple Inc., Hewlett-Packard Enterprise Co., and Aruba Networks, LLC." *Id.* The Parties state as well that "[t]he Settlement Agreement . . . has been made in writing, and a true and correct copy shall be filed with this office as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b)-(c)." *Id.* at 3. In addition, the Parties "certify that there

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[2] We cite to Papers and Exhibits in IPR2022-00420. Similar items were filed in IPR2022-00426.

[3] The Joint Motion does not include page numbers. We identify the pages of the Joint Motion as if they were numbered consecutively, starting with "Joint Motion 1" and ending with "Joint Motion 7."

are no collateral agreements or understandings made in connection with, or in contemplation of, the termination of this inter partes review." *Id.*

There are strong public policy reasons to favor settlement between the parties to a proceeding. *Office Patent Trial Practice Guide*, 84 Fed. Reg. 64,280 (Nov. 21, 2019). Here, in each Joint Motion, the Parties "jointly and respectfully request that the Board terminate the instant proceeding with respect to Cisco" and that "[t]ermination is proper" because:

> (1) "[t]he Board has not yet decided the merits of the proceeding before the request for termination is filed";
>
> (2) "[t]he Parties are jointly requesting termination," and "[t]here are strong public policy reasons to favor settlement between the parties to a proceeding";
>
> (3) "[t]he litigation proceeding styled as *BillJCo, LLC v. Cisco Systems, Inc.*, Case No. 2:21-cv-181 (E.D. Tex.) involving the Patent-At-Issue has been recently terminated pursuant to the Settlement Agreement";
>
> (4) "[t]he Settlement Agreement . . . has been made in writing," "a true and correct copy shall be filed with this Office," and "there are no collateral agreements or understandings made in connection with, or in contemplation of, the termination of this *inter partes* review."

Joint Motion 2–3 (citations and internal quotations omitted).

For at least these reasons, we agree that good cause exists and that it is appropriate to dismiss the petition and terminate the preliminary proceeding in each of the above-captioned matters as to Petitioner Cisco Systems, Inc. *See* 37 C.F.R. § 42.74.

In each Joint Request, "[p]ursuant to 35 U.S.C. § 317(B) and 37 C.F.R. § 42.74(b)-(c), . . . the Parties . . . jointly request that the settlement agreement resolving the dispute between Cisco and Patent Owner . . . submitted in this case concurrently herewith be treated as business

confidential information and kept separate from the files of the involved patent and inter partes review proceeding," and that the Settlement Agreement be "made available to Federal Government agencies" only "upon written request, or to any other person upon written request and a finding of good cause after notice to the parties to the agreement and an opportunity for those parties to respond to the request." Joint Request 2.[4]

After reviewing the Settlement Agreement between the Parties, we find that the Settlement Agreement contains business confidential information regarding the terms of settlement. Thus, we determine that good cause exists to treat the Settlement Agreement (Ex. 1999) between the Parties as business confidential information under 37 C.F.R. § 42.74(c), to keep it separate from the files of the involved patents and associated preliminary proceedings, and to limit its availability as requested by the Parties.

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

III. ORDER

Accordingly, it is:

ORDERED that, in each of IPR2022-00420 and IPR2022-00426, the Parties' Joint Motion to Terminate *Inter Partes* Review as to Petitioner Cisco Systems, Inc. is *granted*;

FURTHER ORDERED that, in each of IPR2022-00420 and IPR2022-00426, the preliminary proceeding as to Petitioner Cisco Systems,

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[4] The Joint Request does not include page numbers. We identify the pages of the Joint Request as if they were numbered consecutively, starting with "Joint Request 1" and ending with "Joint Request 5."

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Inc. is *terminated* and the petition as to Petitioner Cisco Systems, Inc. is *dismissed*; and

FURTHER ORDERED that, in each of IPR2022-00420 and IPR2022-00426, the Parties' Joint Motion to Treat Settlement Information as Business Confidential Information and Keep Separate is *granted*, and the Settlement Agreement shall remain designated as "Parties and Board Only" in Board's filing system, shall made available only to Federal Government agencies on written request, or to any person on a showing of good cause, and shall be kept separate from the files of the involved patents and associated preliminary proceedings, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

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