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Paper 10
Entered: June 22, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY CORPORATION,
Petitioner,

v.

AVAGO TECHNOLOGIES GENERAL IP (SINGAPORE) PTE. LTD.,
Patent Owner.

Case IPR2017-00520
Patent 5,870,087

Before PATRICK R. SCANLON, BARBARA A. PARVIS, and MINN CHUNG, *Administrative Patent Judges.*

SCANLON, *Administrative Patent Judge.*

DECISION
Granting Petitioner's Unopposed Motion to Dismiss Petition
37 C.F.R. §§ 42.71(a), 42.74

On December 21, 2016, Petitioner filed a Petition requesting *inter partes* review of claims 1–3, 5, 7, 10–13, and 16–18 of U.S. Patent No. 5,870,087 ("the '087 patent"). Paper 1. On June 15, 2017, Petitioner filed an Unopposed Motion to Dismiss the Petition, accompanied by a true copy of a written agreement settling the parties' disputes regarding the '087 patent. Paper 8;[1] Ex. 1012. Furthermore, Petitioner and Patent Owner filed a Joint Request to have their agreement treated as business confidential information under 37 C.F.R. § 42.74(c). Paper 9. The Motion represents that the parties "have settled their disputes, and have reached an agreement to terminate this IPR." Paper 8, 2. The parties further certify that there are no collateral agreements or understandings made in connection with, or in contemplation of, the dismissal of the proceeding; related district court litigation involving the parties also has been settled; and no other pending litigation or proceeding involving the '087 patent is contemplated in the foreseeable future. *Id.* at 3–4.

This proceeding is still in a preliminary stage. Patent Owner has not filed a preliminary response, and we have not considered the merits of the

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[1] Although titled "Unopposed Motion to Dismiss the Petition," the Motion "request[s] termination of this *inter partes* review" pursuant to 35 U.S.C. § 317(a). Paper 8, 2. Section 317(a) provides, in relevant part, "[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 the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed." 35 U.S.C. § 317(a) (emphasis added). Because we have not yet issued a decision whether to institute an *inter partes* review, we treat the Motion as seeking *dismissal* of the Petition, as asserted in the Motion's title.

Petition. Furthermore the parties are jointly requesting dismissal. *Id.* at 2. Under these circumstances, Petitioner has demonstrated that dismissal of its Petition is warranted, and we grant Petitioner's Motion. *See* 37 C.F.R. § 42.71(a) (authorizing the Board to dismiss a petition). We also grant the parties' request to have their agreement treated as business confidential information pursuant to 37 C.F.R. § 42.74(c).

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner's Motion is *granted*;

FURTHER ORDERED that the Petition is *dismissed*; and

FURTHER ORDERED that the parties' Joint Request that their agreement (Ex. 1012) be treated as business confidential information under 37 C.F.R. § 42.74(c) is *granted*.

PETITIONER:

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