

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner,

v.

OPENTV, INC.,
Patent Owner.

Cases

IPR2017-01455 (Patent 7,028,327)
IPR2017-01877 (Patent 6,345,389)
IPR2017-01880 (Patent 6,345,389)¹

Before MATTHEW R. CLEMENTS, GARTH D. BAER, and
FREDERICK C. LANEY, *Administrative Patent Judges*.

LANEY, *Administrative Patent Judge*.

DECISION
Termination of the Proceeding
37 C.F.R. § 42.71

¹ This Order addresses an issue that is identical in all cases. We, therefore, exercise our discretion to issue one Order to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

IPR2017-01455 (Patent 7,028,327 B1)
IPR2017-01877 (Patent 6,345,389 B1)
IPR2017-01880 (Patent 6,345,389 B1)

On August 29, 2017, Comcast Cable Communications, LLC (“Comcast”) filed, with authorization, an Unopposed Motion to Dismiss (Paper 6, “Motion” or “Mot.”)² and a copy of a Stipulation Resolving All Outstanding Disputes in Pending Case and For Dismissal of All Claims and Counterclaims that was filed in Case No. 3:16-cv-6180 (N.D. Cal.) on August 15, 2017 (Ex. 1018, “Stipulation”) in each of the above-named proceedings. In its Motion, Comcast argues that there is good cause to dismiss these proceedings. Mot. 3–5. Also, Comcast represents that the “stipulation (Ex. 1018) is the only agreement or understanding between the parties made in connection with, or in contemplation of, the termination of this proceeding – there is no separate written settlement agreement.” Mot. 2.

The Board generally expects that a case “will terminate after the filing of a settlement agreement, unless the Board has already decided the merits.” *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012); see 37 C.F.R. § 42.72. Here, the proceeding is still in its early stages as the Board has not issued a decision on institution. The Stipulation indicates that Comcast and OpenTV, Inc. (“OpenTV”) “wish to resolve all outstanding issues in dispute between the Parties in the N.D. Cal. Litigation and to dismiss without prejudice all claims and counterclaims between the Parties . . . resulting in the termination of all ongoing litigation between the Parties in the Northern District of California.” Ex. 1018, 2. In addition, the Stipulation represents OpenTV has provided Comcast a covenant not to sue on U.S. Patent Nos. 6,345,389 and 7,028,327, as well as several other patents. *Id.* Under these circumstances, we determine that it is

² Citations are to IPR2017-01455 unless otherwise noted. Substantively similar papers were filed in the other proceedings.

IPR2017-01455 (Patent 7,028,327 B1)

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IPR2017-01880 (Patent 6,345,389 B1)

appropriate to dismiss the proceedings pursuant to 37 C.F.R. § 42.71(a) without rendering any further decisions.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that each of Comcast's Unopposed Motions to Dismiss (IPR2017-01455, Paper 6; IPR2017-01877, Paper 6; IPR2017-01880, Paper 6) is *granted*; and

FURTHER ORDERED that the Petitions in each of these proceedings are dismissed.

IPR2017-01455 (Patent 7,028,327 B1)
IPR2017-01877 (Patent 6,345,389 B1)
IPR2017-01880 (Patent 6,345,389 B1)

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