

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

EMERGENT MOBILE LLC,
Patent Owner.

IPR2022-01161
Patent 9,097,530 B2

Before NEIL T. POWELL, BART A. GERSTENBLITH, and
RICHARD H. MARSCHALL, *Administrative Patent Judges*.

POWELL, *Administrative Patent Judge*.

DECISION
Dismissal Prior to Institution of Trial
35 U.S.C. § 314

With our authorization, Google LLC (“Petitioner”) filed an Unopposed Motion to Dismiss the Proceeding Pre-Institution. Paper 9 (“Mot.” or “Motion”). The Motion explains that “[t]he underlying litigations, involving Patent Owner and non-parties to this IPR Petition, have been resolved.”¹ Given this change in circumstances, “[Petitioner] no longer seeks to pursue IPR2022-01161, and specifically requests a pre-institution dismissal of its Petition.” *Id.* at 1. Petitioner asserts that dismissal of its Petition and termination of this proceeding “is the relief provided in similar circumstances and would conserve Board resources and promote efficiency.” *Id.* (citing *Unified Patents, LLC v. Motion Offense, LLC*, IPR2020-00705, Paper 14 at 2, 7 (PTAB Sept. 23, 2020); *Samsung Elecs. v. Telefonaktiebolaget LM Ericsson*, IPR2021-00446, Paper 7 at 5 (PTAB Aug. 3, 2021)). In an email to the Board, Patent Owner noted that it does not oppose Petitioner’s Motion. Ex. 3001, 2.

Dismissal of the Petition and termination of the proceeding is appropriate under the present circumstances. *See* 37 C.F.R. § 42.5; 37 C.F.R. § 42.71(a) (“The Board may take up petitions or motions for decisions in any order, may grant, deny, or dismiss any petition or motion, and may enter any appropriate order.”).² We agree with Petitioner that

¹ In an email to the Board, Petitioner further explained it “understands that Patent Owner entered a confidential settlement agreement with third parties (not [Petitioner]) that resolve the underlying district court proceedings between Patent Owner and non-parties to this IPR Petition.” Ex. 3001, 1. Petitioner also noted that it “does not have the confidential settlement agreement.” *Id.*

² In addition to citing other Rules, the Motion refers to 37 C.F.R. § 42.74. Mot. 1. This Rule refers to “[a]ny agreement or understanding *between the parties*.” 37 C.F.R. § 42.74(b) (emphasis added). Given this, and given that

dismissal of its Petition “would conserve Board resources and promote efficiency.” Mot. 1. We have yet to reach the merits of the Petition and we have not yet issued an institution decision. Thus, the proceeding is at an early stage and it is appropriate to dismiss the Petition and terminate the proceeding to promote efficiency and minimize unnecessary costs. *See, e.g., Samsung Elecs. Co. v. NVIDIA Corp.*, IPR2015-01270, Paper 11 (PTAB Dec. 9, 2015) (granting opposed motion to dismiss before institution).

It is

ORDERED that Petitioner’s Unopposed Motion to Dismiss the Proceeding Pre-Institution is *granted*;

FURTHER ORDERED that the Petition (Paper 1) is *dismissed*; and

FURTHER ORDERED that this proceeding is *terminated*.

the confidential settlement agreement that resolved the related district court proceedings is not between Petitioner and Patent Owner, we address Petitioner’s Motion under 37 C.F.R. §§ 42.5 and 42.71(a).

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