

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC
Petitioner,

v.

TOGAIL TECHNOLOGIES, LTD.
Patent Owner.

U.S. Patent 10,791,502
Issue Date: September 29, 2020

Title: ON-DEMAND SYSTEM INFORMATION REQUEST
PROCEDURE AND ERROR HANDLING

Inter Partes Review No.: IPR2023-00338

JOINT MOTION TO TERMINATE THE PROCEEDING

I. INTRODUCTION

Petitioner and Patent Owner jointly submit this motion to terminate IPR2023-00338 under 37 C.F.R. § 42.71(a). The parties conferred on October 12, 2023, agreed to this motion, and further submitted to the Board a request to file this motion. On October 13, 2023, the Board authorized this joint motion.

The Board has discretion to “**grant**, deny, or dismiss **any petition or motion**.” 37 C.F.R. § 42.71(a) (emphasis added). The parties respectfully request that the Board terminate the proceeding for the good cause shown herein. Specifically, Unified has recently sought to reallocate its resources in light of budget constraints.

Termination will achieve a just, speedy, and inexpensive resolution of the dispute. The trial phase has not concluded, the Board has yet to consider or issue any final decision, and preservation of resources would be real and substantial for the Board and the parties.

II. ARGUMENT

Good cause exists to terminate this proceeding. Unified seeks to reallocate its budgets and resources. Patent Owner would not be prejudiced by dismissal and the Board’s subsequent termination of this matter. Additionally, the termination of this

proceeding will not affect any other proceedings before the Board. The '502 Patent is not involved in any other instituted proceeding before the Board.¹

The Board has broad authority to terminate a petition under 37 C.F.R. §§ 42.71(a) and 42.5(a). *See Facebook, Inc. v. EveryMD.com*, IPR2018-00050, Paper 19 at 4, 8-9 (Oct. 9, 2018) (“[T]he regulations expressly provide the Board with broad authority to dismiss a petition where appropriate” and dismissing, among other reasons, since it was an “inefficient use of the Boards resources,” petitioner requested termination, and the proceedings were “at a relatively early stage”); *see also Nevakar, Inc. v. Cipla LTD.*, IPR2019-01446, Paper 15 at 2 (Apr. 20, 2020) (terminating the instituted proceeding in which no Patent Owner Response had been filed “[n]otwithstanding that the proceeding ha[d] moved beyond the preliminary stage.”). Ending this petition for IPR promotes the Congressional goal of establishing a more efficient patent system. *See Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents*, 77 Fed. Reg. 48,680 (Aug. 14, 2012). The Board can conserve its resources by terminating now.

The parties are not aware of any example wherein the Board found that it

¹ The '502 Patent was the subject of IPR2023-00720. Institution was denied on September 14, 2023, and Petitioner, Apple Inc., filed a Petitioner's Request for Rehearing on October 16, 2023.

could not—or would not—terminate a proceeding under the present circumstances.

In the few cases where the Board has denied a petitioner's request for termination, the Board has repeatedly attributed the advanced stage of the proceeding as weighing against termination. *See, e.g., Blackberry Corp. et al. v. MobileMedia Ideas LLC*, IPR2013-00016, Paper 31 at 3 (Dec. 11, 2013) (denying motion to terminate due to the advanced stage of the proceeding where “issues had been briefed fully at the time the parties moved to terminate the proceeding”). That is not the case here; no briefing has been submitted during the trial phase, and accordingly, the parties' joint request for dismissal and termination of the proceedings is early, voluntary, and consistent with precedent.

The parties further confirm that, beyond conferring regarding positions on this motion, and having agreed to move deadlines in the schedule while awaiting the Board's ruling on this motion, there are no agreements between the parties, written or otherwise.

The Board should terminate this proceeding. Termination would save the Board and the parties the time and resources needed to take IPR2023-00338 through final written decision.

III. CONCLUSION

The Board should terminate IPR2023-00338.

Dated: 19 October 2023

Respectfully submitted,

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CERTIFICATION OF SERVICE ON PATENT OWNER

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on the 19th October 2023, a complete and entire copy of this Joint Motion To Terminate The Proceeding was served via e-mail, to TOGAIL TECHNOLOGIES, LTD. by serving the correspondence email address of record for the '502 Patent:

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Dated: 19 October 2023

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