

Paper No. 8  
Filed: March 3, 2015

Joint Motion to Terminate Proceeding  
IPR2015-00280  
U.S. Patent No. 6,823,269

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZETEC, INC.

Petitioner

v.

WESTINGHOUSE ELECTRIC COMPANY LLC

Patent Owner

Case IPR2015-00280

Patent 6,823,269

**JOINT MOTION TO TERMINATE PROCEEDING**

## **I. Precise Relief Requested**

Pursuant to 35 U.S.C. § 317(a), Petitioner Zetec Corporation (“Zetec”) and Patent Owner Westinghouse Electric Company LLC (“WEC”) jointly request that this *inter partes* review proceeding (“this Review”) involving U.S. Patent No. 6,823,269 (“the ‘269 patent”) be terminated based on a fully executed settlement agreement between Petitioner and Patent Owner (“the Parties”) related to the ‘269 Patent.

## **II. Reasons for Granting the Motion**

The Board authorized the filing of the instant motion in a conference call between the parties on February 26, 2015 and in an Order dated February 27, 2015, paper no. 7. Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement. See, e.g., Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012).

IPR2013-00428, Paper No. 56 provides guidance as to the content of a motion to terminate. There, the Board stated that a joint motion, such as this one, should:

(A) include a brief explanation as to why termination is appropriate;

(B) identify all parties in any related litigation involving the patents at issue;

(C) identify any related proceedings currently before the United States

Patent and Trademark Office (“Office”); and

(D) discuss specifically the current status of each such related litigation or proceeding with respect to each party to the litigation or proceeding. Id. at 2.

This motion satisfies each of the above requirements and is accompanied by a copy of the Parties’ confidential settlement agreement, as required by 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b).

**A. Brief Explanation of Why Termination is Appropriate.**

Termination is appropriate because the Board has not yet instituted a review of the ‘269 Patent. Indeed, the period for response by Patent Owner has not yet expired. Consequently, no final written decision been reached. Termination of this proceeding is appropriate because, if this Motion is granted, Zetec will not be participating as a party in this proceeding going forward, and the Board has not decided the merits of the proceeding nor has the Board even determined whether to initiate an IPR. The Parties have settled their dispute and executed a confidential settlement agreement to terminate this proceeding, as well as the Parties’ related district court litigation regarding the ‘269 patent: *Westinghouse Electric Company LLC v. Zetec, Inc.* 2:13-cv-1124 (NBF) (W.D.Pa). The Court ordered dismissal at

the district court litigation with prejudice on February 26, 2015. ”. A Notification of Decision from the W.D.Pa. District Court to the Commissioner of Patents and Trademarks was sent on March 2, 2015. A true and correct copy of the confidential settlement agreement between the Parties is submitted herewith as Exhibit 1114, with access limited to “Parties and Board.

For the foregoing reasons, the Parties respectfully request termination of this proceeding.

**B. All parties in any pending related litigation involving the patents at issue.**

With the dismissal of the action in the Western District of Pennsylvania, on February 26, 2015, there are no parties in any pending litigation involving the ‘269 Patent.

**C. Related proceedings currently before the Office.**

There are no related proceedings currently before the Office.

**D. Current status of each related litigation or proceeding with respect to each party to the litigation or proceeding.**

The only related litigation has been dismissed as stated in A, above.

### III. Settlement Agreement

Pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b), the Parties are filing a true and correct copy of the confidential settlement agreement in the W.D. Pa. Litigation herewith as Exhibit 1114. The confidential settlement agreement will be electronically filed for access by the Board and Parties only. A joint request is being filed concurrently with this Motion to treat Exhibit 1114 as “business confidential information” per 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

Respectfully submitted,

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Dated: March 3, 2015

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion to Terminate Proceeding was served by electronic mail upon the following:

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