

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PANTIES PLUS, INC.  
Petitioner

v.

BRAGEL INTERNATIONAL, INC.  
Patent Owner

IPR2017-00044  
Patent 7,144,296 B2

**JOINT MOTION TO TERMINATE  
UNDER 35 U.S.C. § 317(a)**

Pursuant to 35 U.S.C. § 317(a), Petitioner Panties Plus, Inc. (“PPI”) and Patent Owner Bragel International, Inc. (“Bragel”) jointly request termination of the *Inter Partes* Review of U.S. Patent 7,144,296 in IPR2017-00044.

Petitioner and Patent Owner have entered into a written confidential settlement agreement that fully resolves all underlying disputes between the parties, including IPR2017-00044 against U.S. Patent 7,144,296 B2. The Parties are concurrently filing a copy of the Settlement Agreement as Ex. 1025 along with a request to treat it as confidential business information pursuant to 35 U.S.C. § 317(b). The undersigned represents that there are no other agreements, oral or written, between the parties made in connection with, or in contemplation of, the termination of the present proceeding and that Ex. 1025 represents a true and accurate copy of the agreement between the parties that resolves the present proceeding.

On June 21, 2017, the Parties informed the Board of the settlement via e-mail and requested authorization to file a joint motion to terminate the proceeding with respect to both the Patent Owner and the Petitioner. As set forth in an e-mail dated June 21, 2017, the Board authorized the filing of the requested joint motion to terminate this proceeding as to both parties. Accordingly, Petitioner and Patent Owner jointly request termination of the

present proceeding.

Public policy favors terminating the present *inter partes* review proceeding. Congress and federal courts have expressed a strong interest in encouraging settlement in litigation. *See, e.g., Delta Air Lines, Inc. v. August*, 450 U.S. 346, 352 (1981) (“The purpose of [Fed. R. Civ. P.] 68 is to encourage the settlement of litigation.”); *Bergh v. Dept. of Transp.*, 794 F.2d 1575, 1577 (Fed. Cir. 1986) (“The law favors settlement of cases.”), *cert. denied*, 479 U.S. 950 (1986). The Federal Circuit places a particularly strong emphasis on settlement. *See Cheyenne River Sioux Tribe v. U.S.*, 806 F.2d 1046, 1050 (Fed. Cir. 1986) (noting that the law favors settlement to reduce antagonism and hostility between parties). And, the Board’s Trial Practice Guide stresses that “[t]here are strong public policy reasons to favor settlement between the parties to a proceeding.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 46,768 (Aug. 14, 2012).

Ending this IPR early promotes the Congressional goal of establishing a more efficient patent system by limiting unnecessary and counterproductive costs. *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). Permitting termination as to all parties provides certainty and fosters an

environment that promotes settlements, creating a timely, cost-effective alternative to litigation.

Additionally, termination of this IPR is appropriate as the Board has not yet “decided the merits of the proceeding.” *See, e.g.*, Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48768 (Aug. 14, 2012). PPI filed its petition for *inter partes* review on October 7, 2016. The Board instituted a proceeding on April 12, 2017. No depositions have taken place and neither the Patent Owner nor the Petitioner have submitted any substantive briefing post-institution. The parties have now settled their dispute, and have reached agreement to terminate this *inter partes* review. The USPTO can conserve its resources through terminating the proceedings now, removing the need for the Board to further consider the arguments, to issue an Institution Decision, and to render a Final Decision. Furthermore, no other party’s rights will be prejudiced by the termination of this proceeding.

As the Board requested in its e-mail sent June 21, 2017, the parties identify the following related district court litigations involving the ‘296 Patent to which the Patent Owner is a party, and the current status of each litigation.

(1) *Bragel International, Inc. v. Charlotte Russe, Inc. et al.*, 2:15-cv-08364 (CACD). This case was voluntarily dismissed on June 20, 2017.

(2) *Bragel International, Inc. v. Styles For Less, Inc. et al.*, 2:15-cv-01756 (CACD). This case was voluntarily dismissed on June 20, 2017.

(3) *Bragel International, Inc. v. AGaci LLC*, 2:15-cv-08439 (CACD). This case was voluntarily dismissed on March 7, 2016.

(4) *Bragel International, Inc. v. E-Retail Society d/b/a Bra Society et al.*, 2:15-cv-07148 (CACD). This case was voluntarily dismissed on October 30, 2015.

(5) *Bragel International, Inc. v. Charlotte Russe, Inc.*, 2:14-cv-07691 (CACD). This case was voluntarily dismissed on February 11, 2015.

(6) *Bragel International, Inc. v. Remi Collections, LLC*, 2:14-cv-02946 (CACD). This case was dismissed pursuant to a stipulated dismissal on August 15, 2014.

(7) *Bragel International, Inc. v. Love Culture, Inc.*, 2:11-cv-04336 (CACD). This case was voluntarily dismissed on September 6, 2011.

Other than the 2:15-cv-08364 (CACD) and 2:15-cv-01756 (CACD) civil actions, Petitioner was not a party to any of the foregoing proceedings.

If this joint motion to terminate is not granted, the Patent Owner will continue to participate in the proceeding by disputing that U.S. Patent 7,144,296 B2 should be invalidated on the ground on which *Inter Partes* Review IPR2017-00044 was instituted.

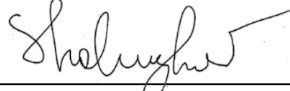
If this joint motion to terminate is not granted, the Petitioner will not continue to participate in the proceeding by arguing that U.S. Patent 7,144,296 B2 should be invalidated on the ground on which *Inter Partes* Review IPR2017-00044 was instituted.

There are no pending, related *inter partes* review proceedings.

Therefore, for at least these reasons, Petitioner and Patent Owner jointly respectfully request termination of the *Inter Partes* Review IPR2017-00044 of U.S. Patent 7,144,296.

Date: June 21, 2017

Respectfully submitted,



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Sergey Kolmykov  
Reg. No. 47,713

Lead Counsel for Petitioner

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Joint Motion to Terminate the Proceeding for *Inter Partes* Review of U.S. Patent 7,144,296 B2 was served on June 21, 2017 via electronic mail directed to the attorneys of record for the patent at the following addresses. Patent Owner has consented to electronic service.

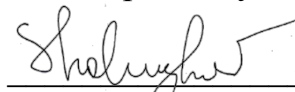
Thomas J. Daly  
LEWIS ROCA ROTHGERBER CHRISTIE LLP  
655 North Central Avenue, Suite 2300  
Glendale, CA 91203-1445  
Tel: 626-795-9900  
Fax: 626-577-8800  
[tdaly@llrc.com](mailto:tdaly@llrc.com)

Katherine L. Quigley  
LEWIS ROCA ROTHGERBER CHRISTIE LLP  
655 North Central Avenue, Suite 2300  
Glendale, CA 91203-1445  
Tel: 626-795-9900  
Fax: 626-577-8800  
[kquigley@llrc.com](mailto:kquigley@llrc.com)

Sami I. Schilly  
LEWIS ROCA ROTHGERBER CHRISTIE LLP  
655 North Central Avenue, Suite 2300  
Glendale, CA 91203-1445  
Tel: 626-795-9900  
Fax: 626-577-8800  
[sschilly@llrc.com](mailto:sschilly@llrc.com)

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Sergey Kolmykov  
Reg. No. 47,713