

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.

Petitioner

v.

HUAWEI TECHNOLOGIES CO. LTD.,

Patent Owner

Case IPR2017-02076

Patent 8,531,971

**JOINT MOTION BY PETITIONERS AND PATENT OWNER TO
TERMINATE PROCEEDING PURSUANT TO
35 U.S.C. § 317 and 37 C.F.R. § 42.74**

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Trial and Appeal Board U.S. Patent and
Trademark Office P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.74, Petitioner Cisco Systems, Inc. US, Inc. (“Cisco” or “Petitioner”) and Patent Owner Huawei Technologies Co. LTD. (“Huawei” or “Patent Owner”) jointly request termination of the *inter partes* review of U.S. Patent No. 8,531,971 (“the 971 Patent”), Case No. IPR2017-02076, without prejudice, and request that the settlement agreement be treated as business confidential information pursuant to 35 U.S.C. § 317(b). The Board authorized the parties to file this Joint Request on January 16, 2018 via email.

I. Termination of Case No. IPR2017-02076 Would Be Appropriate.

Termination of IPR2017-02076 by the Board would be appropriate. The parties have executed a settlement agreement that resolves all of their disputes concerning the ’971 Patent—expressly including the present IPR—and the Board has not yet instituted the proceeding. Motions to terminate based on settlement are routinely granted in the pre-institution timeframe. *See, e.g., NetApp. Inc., et al. v. Realtime Data LLC d/b/a IXO*, Case IPR2017-01664 (PTAB Jan. 5, 2018) (Paper 19); *Amazon.com, Inc. et al. v. Broadcom Corp. et al.*, Case No. IPR2017-01991 (PTAB Oct. 6, 2017) (Paper 8). Accordingly, good cause exists to terminate this proceeding based on settlement as the Board has not yet instituted this proceeding or otherwise resolved the merits of the Petition.

As set forth in 35 U.S.C. § 317 and 37 C.F.R. § 42.74, the agreement has been made in writing in the form of a settlement agreement executed by the parties, and a true and correct copy of that settlement agreement has been filed as Exhibit No. 1100.

The parties hereby represent that the document filed as Exhibit 1100 represents all agreements made in connection with, or in contemplation of, the termination of this proceeding. All such agreements have been filed with the Board as required by § 317(b) and 37 C.F.R. § 42.74(b).

As stated in 35 U.S.C. § 317(a), because Cisco and Huawei request this termination, no estoppel under 35 U.S.C. § 315(e) shall attach as to Petitioner Cisco.

Submitted concurrently herewith is a request by Cisco and Huawei that the settlement agreement be treated as business confidential information, be kept separate from the file of the involved patents, and be made available only to Federal Government agencies on written request, or to any person on a showing of good cause pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

II. Conclusion

Therefore, Cisco and Huawei respectfully request termination of the *inter partes* review of U.S. Patent No. 8,531,971, Case No. IPR2017-02076, without prejudice.

Dated: January 18, 2018

/ Daniel S. Block /
Daniel S. Block
Registration No. 68,395
Counsel for Petitioner
Cisco Systems, Inc.

Dated: January 18, 2018

/Stuart A. Nelson/
Stuart A. Nelson
Registration No. 63,947
Counsel for Patent Owner Huawei
Technologies Co. LTD.

CERTIFICATION OF SERVICE (37 C.F.R. §§ 42.6(e))

The undersigned hereby certifies that the above-captioned “JOINT MOTION BY PETITIONERS AND PATENT OWNER TO TERMINATE PROCEEDING PURSUANT TO 35 U.S.C. § 317 and 37 C.F.R. § 42.74” was served on January 18, 2018 in its entirety via email to the Patent Owner by serving the correspondence email addresses of record as follows:

Michael T. Hawkins (IPR35548-0053IP3@fr.com)

W. Karl Renner (AXF-PTAB@fr.com, PTABInbound@fr.com)

Dan Smith (PTABInbound@fr.com)

Stuart A. Nelson (PTABInbound@fr.com)

Jun Li (PTABInbound@fr.com)

 / Daniel S. Block /

Daniel S. Block
Registration No. 68,395
Counsel for Petitioner
Cisco Systems, Inc.