

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIMELIGHT NETWORKS, INC.,
Petitioner,

v.

AKAMAI TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2018-00310
U.S. Patent 8,194,538

**JOINT MOTION TO TERMINATE PROCEEDING
UNDER 35 U.S.C § 317(a) AND 37 C.F.R. § 42.72 AND
JOINT REQUEST THAT THE SUBMITTED SETTLEMENT
AGREEMENT BE KEPT SEPARATE AS
BUSINESS CONFIDENTIAL INFORMATION**

I. JOINT REQUEST FOR TERMINATION OF THE REVIEW

Under 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72, Petitioner, Limelight Networks, Inc., and Patent Owner, Akamai Technologies, Inc., (collectively, “the Parties”) jointly request to terminate the current *inter partes* review, Case No. IPR2018-00310 relating to U.S. Patent No. 8,194,538 (“the challenged patent”). As stated in 35 U.S.C. § 317(a) and 37 C.F.R. § 42.73(d), because Petitioner and Patent Owner jointly request this termination, no estoppel under 35 U.S.C. § 315(e) shall attach to the Petitioner.

The Board authorized the Parties to file this motion via a communication on April 10, 2018.

Petitioner filed the current *inter partes* review petition on December 19, 2017. Patent Owner filed its preliminary response on March 28, 2018. The Patent Trial and Appeal Board has not yet issued a decision on institution.

Termination is appropriate at this time for the following reasons:

Petitioner and Patent Owner have since settled their disputes, including those involving the challenged patent, and have reached agreement to terminate this *inter partes* review. A Settlement Agreement has been made in writing and was fully executed by the Parties on April 9, 2018. Complying with 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b), a true copy of this Settlement Agreement is submitted concurrently herewith as Exhibit 2002. No other such agreements, written or oral,

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exist between or among the parties. There are no other agreements, oral or written, between the parties made in connection with, or in contemplation of, the termination of this proceeding.

The Settlement Agreement also contains a joint stipulation for dismissal with prejudice of all related district court proceedings between the Parties, specifically: *Limelight Networks, Inc. v. XO Communications, LLC and Akamai Technologies, Inc.*, Case No. 3:15-cv-00720-JAG (E.D. Va.); *Akamai Technologies, Inc. v. Limelight Networks, Inc.*, Case No. 1:16-cv-10253-GAO (D. Mass.); and *Akamai Technologies, Inc. v. Limelight Networks, Inc.*, Case No. 1:16-cv-12624-GAO (D. Mass.).

Patent Owner represents that there are no other pending district court actions in which the challenged patent has been asserted.

Finally, this joint request is proper because no final written decision on the merits has been entered, and because no other parties remain in this *inter partes* review.

II. JOINT REQUEST THAT THE SUBMITTED SETTLEMENT AGREEMENT BE KEPT SEPARATE AND TREATED AS BUSINESS CONFIDENTIAL INFORMATION

Under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), Petitioner and Patent Owner also concurrently request that the Settlement Agreement “be treated as business confidential information, [] be kept separate from the file of the involved

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patents, and [] be made available only to Federal Government agencies on written request, or to any person on a showing of good cause.” 35 U.S.C. § 317(b). In view of this request, the Settlement Agreement (Exhibit 2002) has been filed for access by the “Parties and Board Only.”

III. CONCLUSION

For the foregoing reasons, Petitioner and Patent Owner jointly request that this motion be granted pursuant to 35 U.S.C. § 317 and 37 C.F.R. §§ 42.72, 42.74.

Dated: April 16, 2018

Respectfully submitted,

/Grant K. Rowan/

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PATENT OWNER'S LIST OF EXHIBITS
IPR2018-00310
U.S. PATENT 8,194,538

Exhibit No.	Description
2001	U.S. Patent No. 6,108,703 to Leighton et al. (“the ’703 patent”)
2002	Settlement Agreement - April 9, 2018

CERTIFICATE OF SERVICE

I hereby certify that, on April 16, 2018, I caused a true and correct copy of:

- Joint Motion to Terminate Proceeding
- Ex. 2002
- Patent Owner's Exhibit List

to be served via electronic mail on the following attorneys of record:

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