

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIMELIGHT NETWORKS, INC.,
Petitioner,

v.

AKAMAI TECHNOLOGIES, INC.,
Patent Owner.

IPR2017-00349
Patent 8,307,088 B2

IPR2018-00309
Patent 8,484,319 B2

IPR2018-00310
Patent 8,194,538 B2

IPR2018-00359
Patent 8,458,769 B2

IPR2017-00249, regarding U.S. Patent No. 7,693,959 B2
IPR2017-00349, regarding U.S. Patent No. 8,307,088 B2
IPR2017-01306, regarding U.S. Patent No. 8,775,661 B2
IPR2017-01322, regarding U.S. Patent No. 8,645,539 B2
IPR2018-00309, regarding U.S. Patent No. 8,484,319 B2
IPR2018-00310, regarding U.S. Patent No. 8,194,538 B2
IPR2018-00359, regarding U.S. Patent No. 8,458,769 B2

LIMELIGHT NETWORKS, INC.,
Petitioner,

v.

MASSACHUSETTS INSTITUTE OF TECHNOLOGY,
Patent Owner.

IPR2017-00249
Patent 7,693,959 B2

AKAMAI TECHNOLOGIES, INC.,
Petitioner,

v.

LIMELIGHT NETWORKS, INC.,
Patent Owner.

IPR2017-01306
Patent 8,775,661 B2

IPR2017-01322
Patent 8,645,539 B2

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Before JAMES B. ARPIN, GREGG I. ANDERSON, JENNIFER MEYER
CHAGNON, and JASON W. MELVIN, *Administrative Patent Judges*.¹

MELVIN, *Administrative Patent Judge*.

ORDER

Terminating Trials and Dismissing Petitions

35 U.S.C. § 317; 37 C.F.R. §§ 42.71(a), 42.72, 42.74(c)

¹ Although the panels of these cases collectively include four judges, no case has been expanded to more than three judges.

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On April 9, 2018, the parties in the above-captioned cases contacted the Board by email, requesting authorization to file motions to terminate the following IPR proceedings:

IPR2017-00249, regarding U.S. Patent No. 7,693,959
IPR2017-00349, regarding U.S. Patent No. 8,307,088
IPR2018-00309, regarding U.S. Patent No. 8,484,319
IPR2018-00310, regarding U.S. Patent No. 8,194,538
IPR2018-00359, regarding U.S. Patent No. 8,458,769
IPR2017-01322, regarding U.S. Patent No. 8,645,539
IPR2017-01306, regarding U.S. Patent No. 8,775,661

By email of April 10, 2018, the Board authorized the requested motions and further authorized requests to treat the parties' settlement agreements as confidential under 37 C.F.R. § 42.74(c).

The parties filed a joint motion to terminate and request to keep separate in each case: IPR2017-00249 (Paper 50); IPR2017-00349 (Paper 46); IPR2018-00309 (Paper 7); IPR2018-00310 (Paper 7); IPR2018-00359 (Paper 7); IPR2017-01306 (Paper 22); and IPR2017-01322 (Paper 19). With the motions, the parties filed a Settlement Agreement and confirmed that “[n]o other such agreements, written or oral, exist between or among the parties” and that “[t]here are no other agreements, oral or written, between the parties made in connection with, or in contemplation of, the termination of this proceeding.” *E.g.*, IPR2017-00249, Paper 50, 2; *see* 35 U.S.C. § 317(b).

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IPR2017-00349, regarding U.S. Patent No. 8,307,088 B2
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For IPR2017-00249 and IPR2017-00349, an oral hearing has already occurred and final decisions are due May 18 and 30, 2018, respectively. We have considered the public interest in proceeding to final decision on patentability as compared to the counterbalancing public interest in resolving disputes by settlement between the parties. In this instance, the promotion of settlement of these two cases and five other *inter partes* reviews as part of a global settlement outweighs the value of proceeding to final decision. Thus, for these proceedings, we grant the motion. *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72. We also grant the request to treat the settlement agreement filed in each case as business confidential information, as authorized under 37 C.F.R. § 42.74(c).

For IPR2017-01306 and IPR2017-01322, a trial has been instituted, but briefing has not been completed and an oral hearing has not occurred. As these proceedings are at a sufficiently early stage, we grant the motion. *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72. We also grant the request to treat the settlement agreement filed in each case as business confidential information, as authorized under 37 C.F.R. § 42.74(c).

For IPR2018-00309, IPR2018-00310, and IPR2018-00359, we have not determined whether to institute review, thus, there is no IPR proceeding to terminate. *Cf.* 35 U.S.C. § 317 (applying to “[a]n *inter partes* review instituted under this chapter”). We interpret the parties’ motion in those proceedings as a request to dismiss the respective petition. We grant that request, as authorized under 37 C.F.R. § 42.71(a). We also grant the request

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to treat the settlement agreement filed in each case as business confidential information, as authorized under 37 C.F.R. § 42.74(c).

Accordingly, it is:

ORDERED that the following proceedings are terminated:

- IPR2017-00249;
- IPR2017-00349;
- IPR2017-01306;
- IPR2017-01322; and

FURTHER ORDERED that the following petitions are dismissed:

- IPR2018-00309;
- IPR2018-00310;
- IPR2018-00359; and

FURTHER ORDERED that the settlement agreements be treated as business confidential information and be kept separate from the files of the related patent:

IPR2017-00249, regarding U.S. Patent No. 7,693,959 (Ex. 2019)
IPR2017-00349, regarding U.S. Patent No. 8,307,088 (Ex. 2020)
IPR2017-01306, regarding U.S. Patent No. 8,775,661 (Ex. 2007)
IPR2017-01322, regarding U.S. Patent No. 8,645,539 (Ex. 2007)
IPR2018-00309, regarding U.S. Patent No. 8,484,319 (Ex. 2002)
IPR2018-00310, regarding U.S. Patent No. 8,194,538 (Ex. 2002)
IPR2018-00359, regarding U.S. Patent No. 8,458,769 (Ex. 2001).

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