UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.

Petitioner

v.

BISHOP DISPLAY TECH LLC

Patent Owner

Case No. IPR2022-00501
Patent No. 7,995,047

JOINT MOTION TO TERMINATE PROCEEDING AND JOINT REQUEST TO TREAT SETTLEMENT AGREEMENT AS BUSINESS CONFIDENTIAL INFORMATION AND BE KEPT SEPARATE

Pursuant to 35 U.S.C. § 317(a), 37 C.F.R. § 42.72, and 37 C.F.R. § 42.74, Samsung Electronics Co., Ltd. ("Petitioner") and Patent Owner Bishop Display Tech LLC ("Patent Owner") jointly request termination of this *inter partes* review ("IPR") of 7,995,047 (the "'047 patent"), Case No. IPR2022-00501, and jointly request to treat as business confidential information the copy of the settlement agreement filed along with this paper (Confidential Exhibit 1041). The parties note that the Decision on Institution is pending.

The parties have settled and have reached agreement to terminate this IPR. In accordance with 37 C.F.R. § 42.20(b), the parties received authorization from the Board to file this motion on May 17, 2022.

I. JOINT MOTION TO TERMINATE THE PROCEEDING

Petitioner and Patent Owner jointly request that this *inter partes* review be terminated, in light of the settlement of their dispute regarding the '706 patent.

Termination of this proceeding is proper for at least the following reasons:

- The parties are jointly requesting termination. 77 Fed. Reg. 48756, 48768 (Aug. 14, 2012) ("There are **strong public policy reasons to favor settlement** between the parties to a proceeding.") (emphasis added). Both Congress and the 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). Here, no public interest or other factors weigh against termination of this proceeding.

- The Board has not yet "decided the merits of the proceeding **before the request for termination is filed.**" 35 U.S.C. § 317(a) (emphasis added); 77 Fed. Reg. 48768 ("The Board expects that a proceeding will terminate after the filing of a settlement agreement unless the Board has already decided the merits of the proceeding."). Indeed, the Board has not yet made a decision on institution of this *inter partes* review. Petitioner filed their petition for *inter partes* review on January 31, 2022. No Motions are outstanding in this proceeding. No other party's rights will be prejudiced by the termination of this *inter partes* review. This supports the propriety of terminating this proceeding even though the settlement and termination provisions of 35 U.S.C. § 317, on their face, apply only to "instituted" proceedings. 77 Fed.

Reg. 48680, 48686 (Aug. 14, 2012) (And 35 U.S.C. § 317(a) provides "[a]n *inter partes* review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.").

- In *Bishop Display Tech LLC v. Samsung Electrons. Co. et al.*, United States District Court for the Eastern District of Texas, Case No. 2:21-cv-00136-JRG and *Bishop Display Tech LLC v. Samsung Electrons. Co. et al.*, United States District Court for the Eastern District of Texas, Case No. 2:21-cv-00139-JRG (E.D. Tex.) the parties are moving to dismiss the case. The settlement also calls for Samsung Electronics Co., Ltd. and Bishop Display Tech LLC to jointly request termination of the proceeding before the Board involving the '047 patent (i.e., IPR2022-00501).

The following proceedings are related to the '047 Patent:

Bishop Display Tech LLC v. Samsung Electrons. Co. et al., United States District Court for the Eastern District of Texas, Case No. 2:21-cv-00139-JRG (E.D. Tex. Filed April 20, 2021).

The settlement agreement between the parties has been made in writing, and a true and correct copy will be filed with this request as Confidential Exhibit 1041, consistent with the requirements of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b).

Aside from the settlement agreement, the parties confirm that there are no other "collateral agreements referred to in such agreement or understanding, made in connection with, or in contemplation of, the termination of [the] inter partes review." 35 U.S.C. § 317(b).

Therefore, Petitioner and Patent Owner respectfully submit that this motion to terminate the proceeding should be granted.

II. JOINT MOTION TO TREAT SETTLEMENT AGREEMENT AS BUSINESS CONFIDENTIAL INFORMATION AND BE KEPT SEPARATE

Petitioner and Patent Owner further jointly request that the settlement agreement filed as Confidential Exhibit 1041 be treated as business confidential information and be kept separate from the publicly available files of the involved patent.

35 U.S.C. § 317(b) provides that:

> At the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents, and shall

> be made available only to Federal Government agencies on written request, or to any person on a showing of good cause.

Likewise, 37 C.F.R. § 42.74(c) provides that:

> A party to a settlement may request that the settlement be treated as business confidential information and be kept separate from the files of an involved patent or application. The request must be filed with the settlement. If a timely request is filed, the settlement shall only be available:
>
> (1) To a Government agency on written request to the Board; or
>
> (2) To any other person upon written request to the Board to make the settlement agreement available, along with the fee specified in § 42.15(d) and on a showing of good cause.

The present request, which is being filed along with the Settlement Agreement, is timely and in accordance with the foregoing authority. Therefore, Petitioner and Patent Owner respectfully submit that this request for confidential treatment should be granted.

Respectfully submitted,

Date: May 18, 2022

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the Joint Motion to Terminate Pursuant to 35 U.S.C. § 317 was served on May 18, 2022, by email directed to counsel of record for the Patent Owner as follows:

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