

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ITRON, INC.,
Petitioner,

v.

CERTIFIED MEASUREMENT, LLC,
Patent Owner.

Cases¹

IPR2015-00570 (Patent 5,828,751)
IPR2015-00571 (Patent 6,282,648 B1)
IPR2015-00572 (Patent 6,289,453 B1)
IPR2015-00573 (Patent 8,549,310 B2)

Before KEVIN F. TURNER, PHILLIP J. KAUFFMAN, and
LYNNE E. PETTIGREW, *Administrative Patent Judges*.

KAUFFMAN, *Administrative Patent Judge*.

JUDGMENT

Termination of the Proceedings
35 U.S.C. § 317(a) and 37 C.F.R. § 42.72

¹ This order addresses issues raised in all four cases. We exercise our discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in subsequent papers.

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The parties have requested that these trials be terminated pursuant to a settlement. On February 4, 2016, in each of the cases, we authorized the parties via e-mail to file a joint request to terminate these proceedings and to file the settlement agreement as business confidential information under 37 C.F.R. § 42.74(c). On February 9, 2016, in each of the cases, the parties filed their joint motion, which includes a brief statement of why settlement is appropriate. Paper 26.² The parties also filed a true copy of a written settlement agreement that they request be kept confidential. Paper 26, 7; Ex. 2008.

The Board is not a party to the settlement, and may independently identify any question of patentability. 37 C.F.R § 42.74(a). Generally, however, the Board expects that a proceeding will terminate after the filing of a settlement agreement. *See, e.g.*, Office Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). Although it is fairly late in these proceedings, the parties indicate that this settlement includes these four *inter partes* reviews and the related litigation between the parties.³ Paper 26, 3. Further, there are no pending *inter partes* reviews between these parties on related patents. *Id.* at 3–7. Litigation between Patent Owner and a third party involving the challenged patents remains pending, but the third party is not a petitioner in any pending *inter partes* review of these patents.⁴ *Id.* at 4,

² Unless otherwise specified, we reference IPR2015-00570. Similar papers are filed in the other cases.

³ Oral argument is scheduled for March 7, 2016, and a final written decision is due no later than July 9, 2016.

⁴ *ALSTOM Grid Inc. v. Certified Measurement, LLC*, 1:15-cv-00072 (D. Del.), filed January 22, 2015 (stayed pending *inter partes* review(s)).

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6–7. Significantly, Petitioner has not yet filed a Reply in any of the cases, so that if we do not terminate these proceedings with respect to Patent Owner, we will be required to determine patentability on less than a full record. Under these circumstances, we determine that it is appropriate to enter judgment and terminate the trials with respect to both Petitioner and Patent Owner without rendering final written decisions. *See* 37 C.F.R. § 42.72.

Accordingly, it is

ORDERED that the Joint Motions to Terminate Proceeding Pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74 is *granted*;

FURTHER ORDERED that the Joint Request to File Settlement and License Agreement as Business Confidential Information Pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74, is *granted*.

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PETITIONER:

Kirk T. Bradley
Christopher TL Douglas
ALSTON & BIRD LLP
kirk.bradley@alston.com
christopher.douglas@alston.com

PATENT OWNER:

Tarek N. Fahmi
Holly J. Atkinson
Ascenda Law Group, PC
tarek.fahmi@ascendalaw.com
holly.atkinson@ascendalaw.com