

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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I.M.L. SLU, and  
DUODECAD IT SERVICES LUXEMBOURG S.A R.L.,  
ACCRETIVE TECHNOLOGY GROUP, INC., ICF TECHNOLOGY, INC.,  
and RISER APPS LLC,<sup>1</sup>  
Petitioners,

v.

WAG ACQUISITION, LLC,  
Patent Owner.

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Case IPR2016-01658  
Patent 8,364,839 B2

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Before TREVOR M. JEFFERSON, BRIAN J. McNAMARA, and  
PATRICK M. BOUCHER, *Administrative Patent Judges*.

JEFFERSON, *Administrative Patent Judge*.

DISMISSING PETITION AND  
PETITIONER'S MOTION FOR ADVERSE JUDGMENT  
*37 C.F.R. §§ 42.72, 42.73*

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<sup>1</sup> DUODECAD IT SERVICES LUXEMBOURG S.À R.L, et al. are present by virtue of the joinder of IPR2017-01179 to IPR2016-01658. Paper 25.

## I. INTRODUCTION

A trial in IPR2016-01658 based on a petition filed by Petitioner, I.M.L. SLU (“IML”), was instituted on February 28, 2016, against claims 2, 5, 9, 12, 16, and 19 of U.S. Patent No. 8,364,839 B2 (Ex. 1001, “the ’839 patent”) held by Patent Owner, WAG Acquisition, LLC (“WAG”). Paper 10 (“Inst. Dec.”). We instituted trial on the grounds that claims 2, 9, and 16 of the ’839 patent are unpatentable as obvious under 35 U.S.C. § 103(a) over Chen<sup>2</sup> and Chen FH<sup>3</sup>; and that claims 5, 12, and 19 of the ’839 patent are unpatentable as obvious under 35 U.S.C. § 103(a) over Chen, Chen FH, and Willebeek.<sup>4</sup> Paper 10 (“Inst. Dec.”).<sup>5</sup>

On October 5, 2017, in IPR2017-01179, Duodecad IT Services Luxembourg S.À R.L., Accretive Technology Group, Inc., ICF Technology, Inc., and Riser Apps LLC (“Duodecad”) were joined to IPR2016-01658. Paper 25.<sup>6</sup> Patent Owner filed a Patent Owner Response (Paper 18) and Petitioner filed a Petitioner Reply (Paper 24). Patent Owner also sought additional discovery from IML regarding undisclosed real parties-in-interest, which IML opposed. Paper 21 (“PO Mot. For Add. Disc.”); Paper 22.

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<sup>2</sup> U.S. Patent 5,822,524, issued October 13, 1998 (Ex. 1002, “Chen”).

<sup>3</sup> File History of U.S. Application 505,488 (Ex. 1003, “Chen FH”).

<sup>4</sup> M. H. Willebeek-LeMair, et al, *Bamba-Audio and Video Streaming Over the Internet*, IBM J. RES. DEVELOP., Vol. 42, No. 2 (1998) (Ex. 1004, “Willebeek”).

<sup>5</sup> Each of the challenged claims depends directly from cancelled independent claims 1, 8, and 15 of the ’839 patent. *See Duodecad IT Services Luxembourg S.À R.L., et al. v. WAG Acquisition, LLC*, Case IPR2015-01036, Paper 17 (PTAB Oct. 20, 2016).

<sup>6</sup> In a related case, IPR2016-01656, IML is the sole Petitioner.

Shortly before the scheduled trial hearing on the merits, IML requested leave to withdraw the Petition in this proceeding. We conducted a joint hearing for IPR2016-01656 and IPR2016-01658 as scheduled on November 30, 2017. A public transcript of the hearing is included in the record. Paper 33 (“Public Tr.”).

IML subsequently moved for adverse judgment for abandonment of contest. Paper 36 (“Mot. For Adv. J.”). Patent Owner opposes adverse judgment, filing an opposition under seal and a motion to seal. Paper 37 (“WAG Opp. to Adv. J.”); Paper 38 (WAG Mot. to Seal). Subsequently, Duodecad filed a response to IML’s Motion for Adverse Judgment (Paper 40, “Duodecad Resp. Adv. J.”). Duodecad also filed a Supplemental Response to Patent Owner’s Opposition under seal along with a motion to seal the supplemental response (Paper 44, “Duodecad Supp. Resp. to WAG Opp.”), and a redacted response (Paper 45).

IML’s one-page request seeks to abandon the contest pursuant to 36 C.F.R. § 42.73(b)(4) resulting in an adverse judgment. Mot. For Adv. J. 1. Patent Owner argues that this *inter partes* review should instead be terminated because IML failed to name at least one real party-in-interest, i.e., an entity known as CoolVision that was served with Patent Owner’s infringement suit more than one year before the filing date of the Petition, thus barring the Petition under 35 U.S.C. § 315(b). WAG Opp. to Adv. J. 13–14. Duodecad argues that termination is not appropriate as WAG has failed to establish that CoolVision is a real party-in-interest or privy of IML. Duodecad Supp. Resp. to WAG Opp. 1–5.

For the reasons discussed herein, the proceeding is terminated.

## II. BACKGROUND

Whether IML's Petition named all real parties-in-interest (RPIs) has been an issue for some time. We first granted Patent Owner's Motion for Discovery on this issue on April 27, 2017, where we ordered IML to produce:

documents sufficient to show ownership and/or control of operations between Petitioner, Muly Litvak, and CoolVision, and documents sufficient to identify any role Muly Litvak, CoolVision[,], or its personnel or owners may have played in (i) deciding to file the Petition, (ii) drafting, supervising, approving, or otherwise exerting control over the content of the Petition, and (iii) financing or paying for the Petition.

Paper 12, 9.

On June 5, 2017, we conducted a teleconference with the parties during which we discussed Patent Owner's request for authorization to move for additional discovery and several related discovery matters, including the absence of additional documentation, certain stipulations of fact, and possible interrogatories. Ex. 2006, Transcript of Teleconference ("Jun 5, 2017 Tr."). As we authorized (Jun 5, 2017 Tr., 23), Patent Owner moved for additional discovery (Paper 21) and IML Opposed (Paper 22). On November 3, 2017, we conducted another conference with the parties, but no agreement was reached on discovery as to real parties-in-interest matters.<sup>7</sup>

On November 15, 2017, we entered a Trial Hearing Order in which we stated that, consistent with our previously entered Scheduling Order, we would conduct a consolidated hearing on the merits of each *inter partes*

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<sup>7</sup> A transcript of our November 3, 2017 teleconference has not been made of record.

review on November 30, 2017. Paper 29, 2. We also stated that we would conduct a separate hearing to address Patent Owner's outstanding Motion for Discovery of information concerning Petitioner's real parties-in-interest. *Id.* at 3.

On November 29, 2017, IML sent the Board e-mail correspondence with a proposed motion attached seeking to withdraw the Petitions in IPR2016-01658 and IPR2016-01656. We responded by e-mail that the hearing would take place as scheduled on November 30, 2017, and that we would take up the matter of IML's proposed withdrawal from this proceeding and related proceeding IPR2016-01656 at the discovery hearing.

On November 30, 2017, we conducted a public hearing on the merits and a separate discovery hearing, closed to the public ("Discovery Hearing"). Public Tr. 2:3–6. At the Discovery Hearing, the first issue addressed was IML's proposed withdrawal of the Petition in this proceeding and related proceeding IPR2016-01656. Having not objected to the joinder of Duodecad to the instant proceeding, IML clarified that it sought only to withdraw its own participation in IPR2016-01658 and did not speak for Duodecad;<sup>8</sup> in contrast, as the sole Petitioner in IPR2016-01656, IML indicated it sought to withdraw the Petition in IPR2016-01656. Paper 34, Transcript of Discovery Hearing held on Nov. 30, 2017 ("Discovery Hr'g. Tr.") 7:1–12, 8:1–11.

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<sup>8</sup> Although we instituted on Duodecad's petition, which was substantially identical to that filed by IML, Duodecad's petition would have been time barred under 35 U.S.C. § 315(b), but for the joinder provisions of 35 U.S.C. § 315(c). Paper 25.

During the Discovery Hearing, we noted that the statutory scheme and our rules governing the conduct of these proceedings do not provide for withdrawing a petition. Discovery Hr’g. Tr. 9:9–12:16. *See* 35 U.S.C. § 313; 37 C.F.R. § 42. We also noted that our rules allow a petitioner to request adverse judgment, although adverse judgment could have estoppel implications. *Id.* at 10:15–11:17, *see* 35 U.S.C. § 315(e), 37 C.F.R. 42.73(b), (d).

During the Discovery Hearing, Patent Owner reviewed its contentions concerning the relationship between IML and CoolVision in order to put the discovery Patent Owner seeks into context. Discovery Hr’g. Tr. 22:5–30:25. Counsel for Patent Owner emphasized that IML had advised him by “e-mail yesterday . . . that there’s not going to be any discovery.” *Id.* at 29:19–21. Arguing that Patent Owner’s “[discovery] motion is moot if we are not here” (*id.* at 30:21–22), IML’s counsel stated that she is not authorized to answer specific questions (*id.* at 34:1–2) about the subject matter and that IML’s further actions depend upon what is ordered and what options are open to IML to respond (*id.* at 31:19–32:17).

Initially, Patent Owner stated that it was not opposed to Petitioner’s withdrawal and that “the appropriate ruling here would be adverse judgment.” *Id.* at 13:18–20. However, on December 1, 2017, Patent Owner sent an e-mail to the Board requesting (i) a conference to seek authorization to file a written opposition to Petitioner’s request for leave to withdraw, (ii) to move to require Petitioner to respond to discovery with items we identified at page 7 of the transcript of our conference call on November 3, 2017, which has not been made of record, and (iii) to renew its request for

authorization to file a motion to terminate IPR2016-01656 and IPR2016-01658 as time barred as to all Petitioners. Ex. 3001.

After fully considering the issues, on December 15, 2017, we entered an order requiring IML, by December 20, 2017, to file a motion for adverse judgment or to answer the following discovery requests: Request for Admission 1 and Interrogatories 1, 2(a)–(f), 2(i), 3(a)–(f), 4, 7(a)–(c), and 8(a)–(c). Paper 35, 6–7. Our Order deferred any briefing on the status of Duodecad. Paper 35, 6.

IML did not answer the discovery and filed a Motion for Adverse Judgment on December 20, 2017. Mot. For Adv. J. 1. On January 5, 2018, Patent Owner filed its Opposition to IML’s Motion for Adverse Judgment. WAG Opp. to Adv. J.. Patent Owner also filed a Motion for Entry of a Modified Protective Order and to Seal its Opposition to Petitioner’s Motion for Adverse Judgment. Paper 38.

Pursuant to our Order (Paper 39), Duodecad filed a response to IML’s Motion for Adverse Judgment (Duodecad Resp. Adv. J.). Duodecad also filed a Supplemental Response to Patent Owner’s Opposition under seal along with a motion to seal the supplemental response (Duodecad Supp. Resp. to WAG Opp.), and a redacted response (Paper 45).

### III. CONFIDENTIALITY OF THE DISCOVERY HEARING TRANSCRIPT

Before beginning our analysis, we address the issue of confidential subject matter. The Discovery Hearing was not open to the public, so that we could freely discuss any matters that IML might consider confidential. Our order of December 15, 2017, gave the parties until January 10, 18 to

identify subject matter in the Transcript of the Discovery Hearing that should be redacted from a public version of the transcript. Paper 37, 7. The parties' proposed redactions to the sealed transcript sent to the Board by email on January 10, 2018, are under consideration. Therefore, the Transcript of the Discovery Hearing will remain under seal. Paper 34.

In this Decision, we cite to arguments made at the Discovery Hearing. Our citations to documents that have been designated to contain confidential subject matter do not include quotations from those documents or reveal any information not discussed during the Discovery Hearing.

#### IV. ANALYSIS

The basis of Patent Owner's Opposition to Petitioner's Motion for Adverse Judgment is that the Petition is fatally flawed because Petitioner failed to name all the real parties-in-interest, in particular one party that would bar the Petition. Patent Owner argues it timely raised the issue of whether IML had named all RPIs and that we must address this issue before ruling on IML's Motion for Adverse Judgment. WAG Opp. to Adv. J. 5–10.

Duodecad responds that "Patent Owner seeks an unprecedented adverse inference that CoolVision is an RPI or in privity with IML as a sanction for alleged discovery abuses." Duodecad Resp. Adv. J. 4. According to Duodecad, "IML has not violated any order," but is merely exercising its choice from the options offered by the Board to comply with discovery or elect adverse judgment. *Id.* at 4–5. Furthermore, Duodecad argues that WAG has failed to show that CoolVision is an RPI based on the evidence of record. *Id.* at 6–10. Duodecad asserts that the proceeding should not be terminated as termination is not automatic and failure to name

an RPI does not deprive the Board of jurisdiction over this proceeding. *Id.* at 10–11 (citing *Lumentum Holdings, Inc. v. Capella Photonics, Inc.*, Case IPR2015-00739, slip op. at 5 (PTAB Mar. 4, 2016) (Paper 38) (precedential)). Duodecad’s supplemental response to WAG’s opposition further argues that WAG has not established that CoolVision is an RPI or privy to IML, that an adverse inference is an appropriate remedy, or that the proceeding should be terminated. Duodecad Supp. Resp. to WAG Opp. 1–5.

As in reexamination practice, the Board generally accepts the petitioner’s identification of real party-in-interest. Office Patent Trial Practice Guide 77 Fed. Reg. 48,756, 48,759 (August 14, 2012) (citing *In re Guan, Inter Partes Reexamination Proceeding Control No. 95/001,045*). Although Petitioner’s identification of real parties-in-interest receives the benefit of a rebuttable presumption under Federal Rules of Evidence, that does not shift burden of persuasion, which remains on the party who had it originally. Fed. R. Evid. 301.

The burden of rebutting the presumption that real parties-in-interest have been identified is on the patent owner to show that an un-named party is a real party-in-interest or privy. *See* 112 Cong. Rec. S1375 (daily ed. March 8, 2011)(Senator Kyl Remarks)(“The Office anticipates that patent owners will take the initiative in determining whether a petition[er] is the real party-in-interest or privy of a party that is barred from instituting a proceeding with respect to a patent.”).

Petitioner has the burden of proving unpatentability by a preponderance of evidence. 35 U.S.C. § 316(e). And Petitioner is statutorily required to identify all real parties-in-interest for us to consider

the Petition. 35 U.S.C. § 312(a)(2). When a patent owner provides sufficient rebuttal evidence that reasonably brings into question the accuracy of a petitioner's identification of the real parties-in-interest, the *burden remains with the petitioner* to establish that it has complied with the statutory requirement to identify all the real parties-in-interest. *Atlanta Gas Light Co. v. Bennett Regulator Guards, Inc.*, Case IPR2013-00453, slip op. at 8 (PTAB Jan. 6, 2015) (Paper 88); *Corning Optical Communications RF, LLC v. PPC Broadband, Inc.*, Case IPR2014-00440, slip op. at 13–14 (PTAB Aug. 18, 2015) (Paper 68). Thus, we disagree with Duodecad, as the question is not whether IML has violated any order or is exercising its choice (Duodecad Resp. Adv. J. 4–5), but whether the petitioner establishes that it has complied with the statutory requirement to identify all the real parties-in-interest. As discussed below, IML has failed to shoulder that burden.

Patent Owner argues that IML offered to admit that IML and CoolVision are commonly owned and controlled, but retracted its offer when Patent Owner declined to forgo pursuit of future discovery on this issue in exchange for IML's admission. WAG Opp. to Adv. J. 8 (citing Exhibit 2010, Discovery Hr'g Tr. 33:1–12). Patent Owner further notes that IML's counsel did not dispute IML's and CoolVision's common ownership or control at the discovery hearing. *Id.* (citing Discovery Hr'g. Tr. at 33:1–12). In addition, Patent Owner observes that in response to a direct question from the Panel, IML represented to the panel that WAG's description of IML's structure was generally correct. *Id.* (citing Discovery Hr'g. Tr. at 36:1–5.).

Patent Owner also argues that IML and CoolVision are proxies, noting that CoolVision transferred assets to IML, which then outsourced website operations to CoolVision, so that IML could collect the corresponding revenue. *Id.* at 8 (citing Discovery Hr'g. Tr. 35:13–36:5, Ex. 2011). Patent Owner further cites IML's admission that the individual who instructs IML's counsel in this proceeding also works for CoolVision. *Id.* at 10 (citing Ex. 2007, Discovery Hr'g. Tr. 33:13–34:10).

IML and Duodecad have availed themselves of the procedures of this Board and have therefore consented fully to its jurisdiction. Our earlier orders make clear that Patent Owner established a threshold need for additional discovery on the issue of whether IML disclosed all real parties-in-interest to this proceeding when it filed its Petition prior to Duodecad's petition and motion for joinder. *See* Paper 12 (discussing Patent Owner's November 2016 discovery request). Patent Owner's Motion for Additional Discovery contends that the redacted documents produced thus far, the stipulation filed as Exhibit 2007, and a retracted offer for an additional stipulation are insufficient to satisfy the requirements of identifying all parties that control and direct IML in this proceeding or have other important interests in its outcome. PO Mot. For Add. Disc. 2–4.

We discussed the implications of publicly available information in our first order authorizing discovery, where we noted the publicly documented relationship between IML, CoolVision, and Muly Litvak. Paper 12, 4–9. Our orders authorizing further discovery, although not determinative, indicate that we agree with Patent Owner that significant issues exist as to whether IML identified all real parties-in-interest. *Id.* at 9. IML has failed

to clarify the relationship between itself and CoolVision and has failed to rebut the evidence and allegations made by Patent Owner. Rather than rebut Patent Owner's evidence and allegations, IML has declined to answer further discovery and is willing to accept the consequence of an adverse judgment.

Patent Owner argues that the consequence for IML failing to provide sufficient discovery should be termination of the proceeding and not simply IML abandoning the petition, leaving Duodecad as the sole Petitioner. WAG Opp. to Adv. J. 1–4. Patent Owner contends the evidence of record establishes that CoolVision is a real party-in-interest, or that an adverse inference regarding real party-in-interest or privity under 35 U.S.C. § 315(b) is warranted because IML has made it clear that it seeks withdrawal to avoid proceeding with discovery. WAG Opp. to Adv. J. 12–13.

As a joined petitioner, Duodecad opposes termination, arguing that WAG fails to establish that CoolVision is either a privy or real party-in-interest. Duodecad Supp. Resp. to WAG Opp. 1–4. Duodecad argues that the evidence WAG asserts on common ownership, transfer or assets, or control via common counsel are not sufficient to establish that CoolVision is an unnamed real party-in-interest. *Id.* Furthermore, Duodecad argues that adverse inference is not appropriate because WAG has not shown additional discovery is necessary or pointed to any IML violation of an order from this Board. *Id.* at 4.

Finally, Duodecad argues that Patent Owner has not cited any precedent that supports an action by the Board, i.e., termination under 37 C.F.R. § 42.72, that would prevent Duodecad from participating as a

petitioner. Duodecad Resp. Adv. J. 11. Thus, Duodecad argues that termination is not warranted because IML has not violated any order of the Board and a lapse in compliance with 35 U.S.C. § 312(a) does not deprive the Board of jurisdiction over this proceeding. *Id.* at 10–12. Duodecad argues that as a petitioner, it may continue to a final determination on the merits after adverse judgment is entered against IML. *Id.* at 11–12.

We are not persuaded by Duodecad’s arguments that assert WAG has failed to show that CoolVision is a real party-in-interest or privy or that IML has not violated an order of this Board. Neither of those points is dispositive here. In light of the facts and circumstances noted above, we are persuaded that Patent Owner has provided sufficient rebuttal evidence that brings into question the accuracy of Petitioner’s identification of the real parties-in-interest. In the absence of an adequate response to discovery or argument, IML has failed to bear its burden to establish that it has complied with the statutory requirement to identify all the real parties-in-interest. *Atlanta Gas Light* Case IPR2013-00453, Paper 88 at 8.

Petitioner fails to adduce any facts or evidence to rebut Patent Owner’s evidence that Petitioner failed to identify all the real parties-in-interest. Indeed, Petitioner acknowledged and acquiesced to Patent Owner’s facts as accurate. *See* Discovery Hr’g. Tr. 33:1–34:10 (common counsel); 35:13–36:5 (stating that Patent Owner was correct as to general structure of the operation). Duodecad’s argument that 35 U.S.C. § 312(a) is not a jurisdictional requirement does not negate IML’s failure to persuade us that IML complied with the statutory requirement to identify the real parties-in-

interest. We are not authorized to consider a petition where all of the real parties-in-interest are not identified.

In view of the foregoing facts raised in the record by Patent Owner and Petitioner's abandonment of the proceeding rather than respond to Patent Owner's evidence and discovery, it is Petitioner's failure to carry the burden to persuade us that it complied with the statutory requirement to name the real parties-in-interest that leads us to terminate the instant proceeding. *See Atlanta Gas Light* Case IPR2013-00453, Paper 88 at 8; 37 C.F.R. 42.72.<sup>9</sup> Thus, because IML failed to meet the requirements for a complete petition this proceeding is terminated, the Decision on Institution is vacated, and IML's Petition is dismissed. Accordingly, IML's Motion for Adverse Judgment is moot and is hereby dismissed.

Having vacated the decision instituting this proceeding, we necessarily also vacate the grant of Duodecad's Motion for Joinder in IPR2017-01179. Our order granting Duodecad's petition and motion for joinder states that "IPR2017-01179 is terminated under 37 C.F.R. § 42.72." Paper 25, 6. The petition in IPR2016-01658 that supported Duodecad's Petition and joinder motion, however, has been terminated and vacated.

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<sup>9</sup> *See also Amazon.com, Inc. et al v. Appistry, Inc.*, IPR2015-01480 slip op. 6–7 (PTAB July 13, 2015) (Paper 18) (finding that Petitioner did not comply with 35 U.S.C. § 312(a) as the "burden remains with Petitioner to establish that it has complied with the statutory requirement to identify all real parties-in-interest;" "Petitioner was given the opportunity to provide additional evidence to rebut Patent Owner's evidence and meet its burden, but Petitioner chose not to provide any such evidence.").

Accordingly, our Decision instituting *inter partes* review in IPR2017-01179 and granting joinder with IPR2016-01658 is vacated.

## V. MOTIONS TO SEAL

On May 5, 2017, IML filed an unopposed motion for a protective order. Paper 13. A copy of the agreed-upon protective order was included as Appendix A to Petitioner's Motion. *Id.*

On June 12, 2017, Patent Owner filed a Motion to Seal (Paper 20) its Request for Additional Discovery (Paper 21), Exhibit 2006 (Transcript of a teleconference with the Board of June 5, 2017), Exhibit 2007 (Stipulations of Fact), and 2009 Proposed Interrogatories and Requests for Admission). On June 19, 2017, Petitioner filed its Brief in Opposition to Patent Owner's Motion for Discovery (Paper 22) as accessible to Board and Parties only, but did not file a corresponding Motion to Seal.

On January 5, 2018, Patent Owner filed as Paper 38 a Motion For Entry of The Modified Protective Order and To Seal the Opposition to Petitioner IML SLU's Request For Adverse Judgment filed as Paper 37.<sup>10</sup> Patent Owner's Opposition to IML's Motion of Adverse Judgment references the following exhibits filed as accessible to the Board and parties only: Exhibit 2010 (Excerpt of November 30, 2016 Email from D.

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<sup>10</sup> IML's May 5, 2017 Motion for Protective Order does not state that it differs from the Board's default protective order nor was the Motion accompanied by a marked up version of the Board's default protective order and it is unclear what, if anything, has been "modified" in Patent Owner's filing.

Yohannan), Ex. 2011 (Corporate Transactions documents produced by IML), and Ex. 2013 (November 29, 2017 Email to Board from S. Yovits).

On February 2, 2018, Duodecad filed a motion to seal Paper 43 filed as Duodecad's Supplemental Response to Patent Owner's Opposition (Paper 44).

In view of the parties' agreement on the protective order and Patent Owner's designation of the subject matter as of business significance to IML, we enter the protective order and grant the motions to seal.

## VI. CONCLUSION

IML bears the burden of proof on the issue of having named all real parties-in-interest. For purposes of this proceeding only, IML has failed to carry that burden. Therefore, the proceeding is terminated and our Decision on Institution is vacated.

## ORDER

In consideration of the above, it is

ORDERED that the instant proceeding is *terminated*;

FURTHER ORDERED that the Decision on Institution in the instant proceeding is *vacated*;

FURTHER ORDERED that IML's Petition is *dismissed*;

FURTHER ORDERED that our Decision instituting *inter partes* review in IPR2017-01179 and granting joinder with this instant proceeding is *vacated*;

FURTHER ORDERED that IML's Motion for Adverse Judgment is *dismissed*; and

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FURTHER ORDERED that the unopposed Protective Order is entered and Patent Owner's Motions to Seal and Duodecad's Motion to Seal are *granted*.

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