

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMNEAL PHARMACEUTICALS LLC, PAR PHARMACEUTICAL, INC.,
AND WOCKHARDT BIO AG,
Petitioners,

v.

JAZZ PHARMACEUTICALS, INC.,
Patent Owner.

Cases: IPR2015-00545 (Patent 8,589,182 B1)
IPR2015-00546 (Patent 7,765,106 B2)
IPR2015-00547 (Patent 7,765,107 B2)
IPR2015-00548 (Patent 7,895,059 B2)
IPR2015-00551 (Patent 8,457,988 B1)
IPR2015-00554 (Patent 7,668,730 B2)¹

Before JACQUELINE WRIGHT BONILLA, SUSAN L. C. MITCHELL, and
BRIAN P. MURPHY, *Administrative Patent Judges*.

MURPHY, *Administrative Patent Judge*.

ORDER

Termination of the Proceedings as to Petitioner Wockhardt Bio AG
37 C.F.R. §§ 42.72, 42.74

¹ We exercise our discretion to issue one Order to be filed in each case. The parties are not authorized to use this style heading. Cases IPR2015-01810, 01813, 01814, 01815, 01816, 01817, 01818, and 01820 have been joined to these proceedings.

IPR2015-00545 (Patent 8,589,182 B1)
IPR2015-00546 (Patent 7,765,106 B2)
IPR2015-00547 (Patent 7,765,107 B2)
IPR2015-00548 (Patent 7,895,059 B2)
IPR2015-00551 (Patent 8,457,988 B1)
IPR2015-00554 (Patent 7,668,730 B2)

On April 19, 2016, we authorized Petitioner Wockhardt Bio AG (“Petitioner Wockhardt”) and Jazz Pharmaceuticals, Inc. (“Patent Owner”) to file a joint motion to terminate this proceeding with respect to Petitioner Wockhardt due to settlement. Ex. 2060.² We also authorized the Petitioner Wockhardt and Patent Owner to file a joint request to treat the underlying settlement agreement as business confidential information. *Id.* On April 26, 2016, pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. §§ 42.72, 42.74, the parties filed a Joint Motion to terminate these proceedings with respect to Petitioner Wockhardt (Paper 65, “Joint Motion” or “Joint Mot.”) and to treat the submitted settlement agreement (Ex. 2061) as business confidential information (Paper 66). In the Joint Motion, the parties represent that a true and correct copy of the confidential settlement agreement has been submitted electronically via the Patent Review Processing System (PRPS) as “Board Only.”³ Joint Mot. 2–3.

“An 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.” 35 U.S.C. § 317(a). The Office has not yet decided the merits of this proceeding, and a final written decision has not yet been entered. Petitioner Wockhardt and Patent Owner represent that there are no related proceedings currently before the Office involving the patents at issue and

² For ease of reference, all citations are to the papers and exhibits filed in IPR2015-00545.

³ The settlement agreement contains both Patent Owner’s and Petitioner Wockhardt’s business confidential information, which cannot be made available to any of the other Petitioners remaining in these proceedings.

IPR2015-00545 (Patent 8,589,182 B1)
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IPR2015-00554 (Patent 7,668,730 B2)

Petitioner Wockhardt. Joint Mot. 4. Petitioner Wockhardt and Patent Owner identify related, co-pending U.S. district court proceedings, and they represent that the related district court proceedings remain pending against Petitioners Amneal Pharmaceuticals LLC and Par Pharmaceutical, Inc. as well as other defendants. *Id.* Petitioner Wockhardt and Patent Owner further represent that they have concurrently filed a Stipulation and Order of Dismissal in the district court. *Id.* at 2. Accordingly, we determine that good cause exists to terminate this proceeding with respect to Petitioner Wockhardt.

“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.” 35 U.S.C. § 317(b). After reviewing the parties’ settlement agreement, we find that the settlement agreement contains confidential business information regarding the terms of settlement. We determine that good cause exists to treat the settlement agreement as business confidential information pursuant to 35 U.S.C. § 317(b).

ORDER

For the reasons given, it is

ORDERED that the Joint Motion (Paper 65) is *granted*;

FURTHER ORDERED that the Joint Request that the Confidential Settlement Agreement be Treated as Business Confidential Information (Paper 66) is *granted*;

IPR2015-00545 (Patent 8,589,182 B1)
IPR2015-00546 (Patent 7,765,106 B2)
IPR2015-00547 (Patent 7,765,107 B2)
IPR2015-00548 (Patent 7,895,059 B2)
IPR2015-00551 (Patent 8,457,988 B1)
IPR2015-00554 (Patent 7,668,730 B2)

FURTHER ORDERED that this proceeding is hereby terminated with respect to Petitioner Wockhardt; and

FURTHER ORDERED that the filed settlement agreement (Ex. 2061) be treated as Business Confidential Information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) and also remain designated as “Board Only” in PRPS.

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