

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ELEKTA, INC.,  
Petitioner

v.

VARIAN MEDICAL SYSTEMS INTERNATIONAL AG,  
Patent Owner

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Case IPR2016-00845  
Patent 7,906,770

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Before BRIAN J. MCNAMARA, PATRICK M. BOUCHER, and GARTH  
D. BAER, Administrative Patent Judges.

BAER, *Administrative Patent Judge.*

DECISION

Termination of the Proceeding  
37 C.F.R. §§ 42.72, 42.73, 42.7

On April 12 2017, the parties filed a joint motion to terminate this proceeding under 35 U.S.C. § 317 and 37 C.F.R. § 42.74. Paper 26. The parties filed a copy of their settlement agreement, in accordance with 37 C.F.R. § 42.74(b). Ex. 2115. The parties filed also a joint request to treat the settlement agreement as confidential business information, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 27. The parties indicate in their joint motion that termination is appropriate because the dispute between the parties relating to U.S. Patent No. 7,906,770 has been resolved. Paper 26, 1. For the reasons set forth below, we grant the joint motion to terminate and the joint request to treat the settlement agreement as business confidential information.

Under 35 U.S.C. § 317(a), “[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 patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” In this case, briefing is not complete, and we have not had an oral hearing or issued a final written decision. Thus, upon consideration of the facts before us, we determine it is appropriate to terminate this case and enter judgment without rendering a final written decision. *See* 37 C.F.R. §§ 42.72, 42.73, 42.74. We determine also that the parties have complied with the requirements of 37 C.F.R. § 42.74(c) and, therefore, we grant the parties’ joint request to treat the settlement agreement as business confidential information.

Accordingly it is:

ORDERED that the parties’ joint motion to terminate this proceeding is *granted* and this case is hereby terminated; and

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FURTHER ORDERED that the parties' joint request that the agreement (Ex. 2115) submitted in support of their joint motion be treated as business confidential information, kept separate from the file of U.S. Patent No. 7,906,770, and made available only under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), is *granted*.

**PETITIONER:**

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