

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.
Petitioner,

v.

SENJU PHARMACEUTICAL CO., LTD.
Patent Owner.

Case IPR2016-01163
Patent No. 8,877,168

**JOINT REQUEST THAT SETTLEMENT AGREEMENT BE TREATED AS
BUSINESS CONFIDENTIAL INFORMATION AND KEPT SEPARATE
UNDER 37 C.F.R § 42.74(c)**

INTRODUCTION

Petitioner Mylan Pharmaceuticals, Inc. (“Mylan”) and Patent Owner Senju Pharmaceutical Co., Ltd. (“Senju”) have entered into a settlement agreement that resolves all underlying disputes between the parties, including the *inter partes* review proceeding IPR2016-01163, against U.S. Patent No. 8,877,168, currently before the Board (“the proceeding”).

In an email sent to the parties on August 4, 2016, in light of the settlement agreement, the Board authorized the parties to file a joint motion to terminate in the above-captioned proceeding. Also in the email, the Board authorized the parties to file a joint request that the Office treat the agreement as business confidential information. Accordingly, the parties jointly request that the agreement be held separately and treated as business confidential information pursuant to 37 C.F.R. § 42.74(c).

RELIEF REQUESTED

If requested, the rules permit the parties to have any filed settlement agreement treated as business confidential information, and kept separate from the files of the involved patent. 37 C.F.R. § 42.74(c). Indeed, the statute requires it.

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).

In a motion filed concurrently herewith, Petitioner and Patent Owner jointly request termination of the proceeding. The parties also submit, as part of that joint request, a true copy of the Agreement between them (Exhibit 1035). Because the Agreement contains confidential business information, the parties jointly request that the Office treat the Agreement (Exhibit 1035) as business confidential information, that the Agreement be kept separate from the file of the involved patents, and that the Agreement be made available only to Federal Government agencies on written request, or to other persons only on a showing of good cause.

CONCLUSION

For the foregoing reasons, the Petitioner Mylan and the Patent Owner Senju jointly and respectfully request that the Board hold the Agreement as business confidential information pursuant to 37 C.F.R. § 42.74(c) in the proceeding.

RESPECTFULLY SUBMITTED,

Date: August 9, 2016

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