

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CHARLES RIVER LABORATORIES, INC. and CHARLES RIVER  
LABORATORIES INTERNATIONAL, INC.,  
Petitioners

v.

IDEXX LABORATORIES, INC., and IDEXX DISTRIBUTION, INC.  
Patent Owner

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Case No.: IPR2016-01508 (8,945,945)

Case No.: IPR2016-01511 (8,927,298)

Case No.: IPR2016-01513 (9,040,308)<sup>1</sup>

For: Sample Collection and Analysis

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**JOINT MOTION TO TERMINATE PROCEEDINGS UNDER**

**37 C.F.R. § 317(a)**

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Pursuant to 35 U.S.C. § 317(a), 37 C.F.R. §§42.72 and 42.74, Petitioners  
Charles River Laboratories, Inc. and Charles River Laboratories International, Inc.  
(collectively, “CRL”), and Patent Owners, IDEXX Laboratories Inc. and IDEXX

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<sup>1</sup> A word-for-word identical Motion is being filed in each proceeding.

Distribution Inc. (collectively, “IDEXX”), jointly request termination of IPR2016-01508, IPR2016-01511, and IPR2016-01513.<sup>2</sup>

The Board authorized this Motion by Email on February 8, 2017.

CRL and IDEXX have reached a settlement agreement that resolves all pending disputes between CRL and IDEXX as to the subject patents, including the subject IPRs. Pursuant to 37 C.F.R. § 42.74(b), the parties’ settlement agreements are in writing, and a true and correct copy is filed concurrently with this Motion. Pursuant to 37 C.F.R. § 42.74(c), the parties request that the settlement agreements be treated as business confidential information and be kept separate from the files of an involved patent or application.

The parties believe that termination of these proceedings is proper under 35 U.S.C. §317(a) because the Board has not yet decided the merits of the proceedings as to IPR2016-01508, IPR2016-01511, and IPR2016-01513. Pursuant to 35 U.S.C. § 317(a), an *inter partes* review proceeding “shall be terminated” with respect to any settling 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.” Additionally, “[t]here are strong public policy reasons to favor settlement between the parties to a proceeding,” and the Board expects that a post grant proceeding “will terminate after the filing of a settlement

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<sup>2</sup> The Board has yet to issue a decision in these IPRs.

agreement.” *See*, Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). Termination of these proceedings avoids both the Board and the parties from spending unnecessary resources.

### **Status of Pending Patent Office Proceedings**

The parties are unaware of any other issued patent proceedings pending before the United States Patent and Trademark Office that would be affected by the outcome of this proceeding. Specifically, the parties are unaware of any additional pending, related *inter partes* review proceedings.

### **Status of Pending District Court Actions**

The settlement agreement entered into between the parties requires that the related district court action involving the subject parties and subject patents, *IDEXX Labs. et al. v. Charles River Labs. et al.*, No. 15-668 (D. Del.), be dismissed no later than February 9, 2017, and the parties are in the process of implementing that action. Accordingly, the parties respectfully request termination of these proceedings.

Dated: February 9, 2017

Respectfully submitted,

/s/ Brian Drummond  
(Reg. No. 68,414)

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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing *Joint Motion to Terminate Proceedings Under 35 U.S.C. §317(a)* was served electronically via email as follows:

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Dated: February 9, 2017

By: /s/ Brian Drummond