

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICRO LABS LIMITED and
MICRO LABS USA INC.,
Petitioner,

v.

SANTEN PHARMACEUTICAL CO., LTD. and
ASAHI GLASS CO., LTD.,
Patent Owner.

Case IPR2017-01434
Patent 5,886,035

Before JO-ANNE M. KOKOSKI, CHRISTOPER G. PAULRAJ, and
DEBRA L. DENNETT, *Administrative Patent Judges*.

KOKOSKI, *Administrative Patent Judge*.

DECISION
Termination With Respect to Petitioner
37 C.F.R. § 42.74

On November 27, 2018, with Board authorization, the parties filed a joint motion to terminate this proceeding (Paper 50), along with what they indicate is a copy of their written settlement agreement (Ex. 2066). On the same day, the parties also filed a joint motion requesting that the settlement agreement be treated as business confidential information and kept separate from the file of U.S. Patent No. 5,886,035 (“the ’035 patent”). Paper 51.

For the reasons provided below, the joint motion to terminate is *granted-in-part*. That is, the proceeding is terminated with respect to Micro Labs Limited and Micro Labs USA, Inc. (collectively, “Petitioner”), but the proceeding is not terminated. The joint request that the settlement agreement be treated as business confidential information is *granted*.

Although the parties may agree to settle their issues related to the ’035 patent, the Board is not a party to that settlement and may determine independently any question of patentability. 37 C.F.R. § 42.74(a). Here, the issues are fully briefed, an oral hearing was held on September 6, 2018, and the statutory deadline for filing a final written decision is November 29, 2018, just two days after the parties moved to terminate the proceedings.

In view of the parties’ settlement agreement, we determine that it is appropriate to terminate the involvement of Petitioner. However, due to the advanced stage of this proceeding, rather than terminate this proceeding, we will proceed to a final written decision. 35 U.S.C. §§ 317(a) and 318(a).

Accordingly, it is

ORDERED that the joint motion to terminate (Paper 50) is *granted-in-part*, and the proceeding is terminated as to Micro Labs Limited and Micro Labs USA Inc.; and

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FURTHER ORDERED that the joint request that the settlement agreement (Ex. 2066) be treated as business confidential information (Paper 51) is *granted*.

PETITIONER:

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