

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TARO PHARMACEUTICALS U.S.A., INC.,
Petitioner,

v.

APOTEX TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2017-01446
Patent 7,049,328 B2

Before JEFFREY N. FREDMAN, ZHENYU YANG, and
MICHELLE N. ANKENBRAND, *Administrative Patent Judges*.

FREDMAN, *Administrative Patent Judge*.

JUDGMENT

Termination of the Proceeding
35 U.S.C. § 317(a); 37 C.F.R. § 42.72

On August 6, 2018, pursuant to 35 U.S.C. § 317(a), and with our prior authorization, the parties filed a Joint Motion to terminate the above-referenced proceeding. Paper 61. Accompanying the Motion, the parties filed a copy of a settlement agreement along with a Joint Request to treat the settlement agreement as business confidential, to be kept separate from the

patent file under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Papers 62, 63.

We entered a Decision to Institute an *inter partes* review on November 28, 2017. Paper 7. Although there has been briefing activity in this proceeding since institution, the parties explain that termination is appropriate because (1) Petitioners and Patent Owner have settled their disputes and have agreed to terminate the proceeding, (2) the Office has not yet decided the merits of the proceeding, and (3) public policy favors the termination. *See* Paper 61. At this juncture of the proceeding, the oral hearing has not occurred and the Board has not entered a final decision.

The Board generally expects that a case “will terminate after the filing of a settlement agreement, unless the Board has already decided the merits” of that case. Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012); *see also* 37 C.F.R. § 42.72 (“The Board may terminate a trial without rendering a final written decision . . . pursuant to a joint request under 35 U.S.C. 317(a).”). Based on the facts of the case, it is appropriate to enter judgment and terminate the proceeding without rendering a final written decision. *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72. We also determine that the parties have complied with the requirements of 37 C.F.R. § 42.74(c) to have the settlement agreement treated as business confidential information and kept separate from the files of the patent at issue in this proceeding. Thus, the joint motion to terminate the proceeding and joint request that the settlement agreement be treated as business confidential information are granted.

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Accordingly, it is

ORDERED that the joint motion to terminate this proceeding is granted;

FURTHER ORDERED that this proceeding is terminated; and

FURTHER ORDERED that the parties' joint request that the settlement agreement be treated as business confidential information, to be kept separate from the patent file is granted.

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