

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PAR PHARMACEUTICAL, INC.,
Petitioners,

v.

HORIZON THERAPEUTICS, LLC,
Patent Owner.

Case IPR2017-01767 (Patent 9,254,278 B2)
Case IPR2017-01768 (Patent 9,095,559 B2)
Case IPR2017-01769 (Patent 9,326,966 B2)¹

Before TONI R. SCHEINER, DEBORAH KATZ, GRACE KARAFFA
OBERMANN, and RAMA G. ELLURU, *Administrative Patent Judges*.

KATZ, *Administrative Patent Judge*.

ORDER

*Granting Joint Motion to Terminate Proceeding and
Granting Joint Request to Treat Settlement Agreement as
Business Confidential Information*
35 U.S.C. § 317; 37 C.F.R. §§ 42.72, 42.74

¹ We exercise our discretion to issue one Order to be filed in the three cited cases.
The parties are not authorized to use this style heading for any subsequent papers.

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On September 28, 2018, Petitioner Par Pharmaceutical, Inc. and Patent Owner Horizon Therapeutics, LLC (“the parties”) filed a Joint Motion to Terminate in each of the above-identified proceedings. *See* IPR2017-01767, Paper 43, IPR2017-01768, Paper 42, and IPR2017-01769, Paper 43 (“Joint Motions”). According to the parties, the settlement agreement resolves all currently pending Patent Office and District Court proceedings between the parties to this proceeding involving patents 9,095,559, 9,254,278, and 9,326,966. Joint Motions 2. The parties represent that they have reached an agreement jointly seeking termination of these *inter partes* review proceedings. *Id.* The parties also represent that they have agreed to dismiss related district court litigation, *Horizon Therapeutics, Inc. v. Par Pharmaceuticals, Inc.*, Civil Action No. 1:16-cv-03910-RBK-JS (D.N.J. filed June 30, 2016). *Id.*

Although we instituted trials (*see* IPR2017-01767, Paper 10; IPR2017-01768, Paper 10, and IPR2017-01769, Paper 10), briefing is not yet complete in these proceedings and Final Written Decisions have not yet been finalized. Accordingly, we grant the parties’ requests and terminate the proceedings. *See* 35 U.S.C. § 317(a).

Along with the Joint Motions, the parties filed copies of a Confidential Settlement and License Agreement (Exhibit 2058, “Settlement Agreement”) in each proceeding and request that they be kept separate and confidential because of the inclusion of highly sensitive business confidential information that would substantially harm their business interests if publicly disclosed. *See* IPR2017-01767, Paper 44, IPR2017-01768, Paper 43, and IPR2017-01769, Paper 44 (“Joint Requests”). We grant the requests, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

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The Parties further request that “the Board order that in the event a person or entity makes a written request, as stated in 37 C.F.R. § 42.74(c)(1)-(2), for access to the settlement agreement, that any such written request be served upon the parties on the day the written request is provided to the Board.” Joint Request 1. We have no procedure to serve upon the parties a request for access to the Settlement Agreement, and, further, our regulations do not require us to do so. Therefore, we decline to issue an order regarding such requests.

Accordingly, for the reasons discussed above:

It is ORDERED that the Joint Motion to Terminate (IPR2017-01767, Paper 43) is granted, and IPR2017-01767 is terminated with respect to Petitioner and Patent Owner pursuant to 37 C.F.R. § 42.72;

It is FURTHER ORDERED that the Joint Motion to Terminate (IPR2017-01768, Paper 42) is granted, and IPR2017-01768 is terminated with respect to Petitioner and Patent Owner pursuant to 37 C.F.R. § 42.72; and

It is FURTHER ORDERED that the Joint Motion to Terminate (IPR2017-01769, Paper 43) is granted, and IPR2017-01769 is terminated with respect to Petitioner and Patent Owner pursuant to 37 C.F.R. § 42.72;

It is FURTHER ORDERED that the parties’ joint requests to treat the settlement agreement as business confidential information (IPR2017- 01767, Paper 44, IPR2017-01768, Paper 43, and IPR2017-01769, Paper 44) are granted, and the Settlement Agreement (Exhibit 2058) shall be kept separate from the files of the involved patents, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c);

It is FURTHER ORDERED that the parties’ request for notice of a request to access the settlement agreement is DENIED.

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