

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ARGENTUM PHARMACEUTICALS LLC,  
Petitioner,

v.

COSMO TECHNOLOGIES LTD.,  
Patent Owner.

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Case IPR2018-00080  
Patent 9,320,716 B2

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Before SUSAN L. C. MITCHELL, ZHENYU YANG, and KRISTI L. R.  
SAWERT, *Administrative Patent Judges*.

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DECISION  
Granting Joint Motion to Terminate  
Due to Settlement Prior to Institution  
*37 C.F.R. §§ 42.72, 42.74*

On April 20, 2018, Argentum Pharmaceuticals LLC (“Petitioner”) and Cosmo Technologies Ltd. (“Patent Owner”) filed a joint motion to terminate this proceeding pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72. Paper 18 (“Motion” or “Mot.”). The motion was accompanied by a true, unredacted copy of a settlement agreement (Ex. 2043), and a joint request to treat the settlement agreement as business confidential information, to be kept separate from the patent file, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (Paper 19).

Petitioner represents in the parties’ joint motion that “it will no longer participate in this *inter partes* review and will file no further papers.”

Mot. 2. Additionally, the parties state that all related *inter partes* review proceedings (IPR2017-01034 and IPR2017-01035) have been terminated, and that the related district court case between the parties, *Cosmo Technologies Limited, Valeant Pharmaceuticals International, and Valeant Pharmaceuticals Luxembourg S.A. R.L. v. Mylan Pharmaceuticals, Inc.*, 16-cv-00152 (D. Del.), has been settled out of court. *Id.* at 2–3.

The Board generally expects that a case “will terminate after the filing of a settlement agreement, unless the Board has already decided the merits.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012); *see also* 37 C.F.R. § 42.72. This proceeding is in a preliminary stage. No decision on whether to institute trial has been issued. Under the circumstances presented here, we determine that it is appropriate to terminate this preliminary proceeding with respect to both Petitioner and Patent Owner. Accordingly, we grant the parties’ joint motion to terminate.

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, we grant the Joint Request to treat the settlement agreement as business confidential.

Accordingly, it is

ORDERED that the joint motion to terminate the proceedings is GRANTED;

FURTHER ORDERED that the joint request to treat the parties' settlement agreement as business confidential information, to be kept separate from the patent file, is GRANTED; and

FURTHER ORDERED that the instant proceeding is TERMINATED.

IPR2018-00080  
Patent 9,320,716 B2

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