

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MONAGHAN MEDICAL CORP.,
Petitioner,

v.

SMITHS MEDICAL ASD, INC.,
Patent Owner.

IPR2018-01466, Patent 7,059,324 B2
IPR2018-01481, Patent 6,581,598 B1

Before SCOTT A. DANIELS, TIMOTHY J. GOODSON, and
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

FINAMORE, *Administrative Patent Judge*.

ORDER

Granting Joint Motion to Terminate Proceeding Due to
Settlement before Institution Decision and
Granting Joint Request to File Settlement Agreement as
Business Confidential Information
37 C.F.R. § 42.74

I. INTRODUCTION

In each of the above-referenced *inter partes* review proceedings, Petitioner and Patent Owner jointly request that the respective proceeding be terminated pursuant to a settlement. On October 24, 2018, with our authorization, the parties filed a Joint Motion to Terminate Proceeding (Paper 13, “Joint Motion”), a copy of a Confidential Settlement Agreement (Ex. 1019, “Settlement Agreement”), and a Joint Request to File Settlement Agreement as Business Confidential Information (Paper 14, “Joint Request”).¹

II. DISCUSSION

In the Joint Motion, the parties represent that they have reached an agreement to jointly request termination of the *inter partes* review proceeding, and that the filed copy of the Settlement Agreement is a true and correct copy. Joint Mot. 1–2.² The parties further represent that their Settlement Agreement resolves the related district court litigation, as well as the related *inter partes* review proceeding, IPR2018-01481. *Id.* at 1.

Each of these proceedings is at an early stage, and we have not yet decided whether to institute an *inter partes* review in either proceeding. In view of the early stage of the proceedings and the settlement between the parties, we determine that good cause exists to terminate the proceedings.

¹ The parties filed similar papers in both proceedings. We cite to IPR2018-01466 as exemplary.

² The Joint Motion does not include page numbers. We refer to the pages of the Joint Motion as consecutively numbered, beginning with the page following the cover page as page 1.

With respect to the parties' Joint Request, we have reviewed the Settlement Agreement and find that the Settlement Agreement contains confidential business information regarding the terms of settlement. We determine that good cause exists to treat the Settlement Agreement as business confidential information pursuant to 37 C.F.R. § 42.74(c).

III. CONCLUSION

For the foregoing reasons, we grant the parties' Joint Motion and Joint Request in each proceeding. This determination does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

IV. ORDER

Accordingly, it is:

ORDERED that the Joint Motion to Terminate in each proceeding is *granted*, and IPR2018-01466 and IPR2018-01481 are *terminated*;

FURTHER ORDERED that the Joint Request to File the Settlement Agreement as Business Confidential Information in each proceeding is *granted*, and the Settlement Agreement in each proceeding shall be kept separate from the respective file of U.S. Patent No. 7,059,324 B2 and U.S. Patent No. 6,581,598 B1, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 37 C.F.R. § 42.74(c).

IPR2018-01466, Patent 7,059,324 B2
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