

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TEVA PHARMACEUTICALS USA, INC. AND WATSON  
LABORATORIES, INC.,  
Petitioner

v.

MERCK SHARP & DOHME CORP.,  
Patent Owner.

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IPR2020-01045  
Patent 7,326,708 B2

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Before SHERIDAN K. SNEDDEN, ROBERT A. POLLOCK, and  
TIMOTHY G. MAJORS, *Administrative Patent Judges*.

MAJORS, *Administrative Patent Judge*.

TERMINATION

Due to Settlement After Institution of Trial  
*35 U.S.C. § 317; 37 C.F.R. § 42.74*

## DISCUSSION

Pursuant to authorization by the Board, the parties filed the following: (1) a Joint Motion to Terminate IPR (Paper 22); (2) a true copy of the parties' settlement agreement (Ex. 1023); and (3) a joint motion to treat the settlement agreement as business confidential information, and to keep separate from the file of the involved patent, under 37 C.F.R. § 42.74(c) (Paper 23).

Oral argument has not been held, and a final written decision has not been entered. In the Joint Motion to Terminate IPR, the parties indicate that they have settled all their disputes in this proceeding, and have agreed to terminate the proceeding. Paper 22, 1. The parties represent that "there are no other agreements, oral or written, between the parties made in connection with, or in contemplation of, the termination of the proceeding, beyond the written agreements submitted as Ex. 1023." *Id.* Under these particular circumstances, we determine that it is appropriate to terminate the proceeding without rendering a final written decision. *See* 35 U.S.C. § 317; 37 C.F.R. § 42.72. We also have reviewed the copy of the parties' settlement agreement (Ex. 1023), and we determine that good cause exists to treat this settlement agreement as business confidential information, and keep it separate from the file of U.S Patent No. 7,326,708 B2 (Ex. 1001, "the '708 patent"), under 37 C.F.R. § 42.74(c).

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the parties' request (Paper 23) to treat the true copy of their settlement agreement (Ex. 1023) as business confidential information, and to keep separate from the file of the involved patent, under 37 C.F.R. § 42.74(c) is *granted*;

FURTHER ORDERED that the settlement agreement (Ex. 1023) shall be treated as business confidential information, kept separate from the file of the '708 patent, and made available only to Federal Government agencies on written request to the Board, or to any person on a showing of good cause, under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c); and

FURTHER ORDERED that the parties' Joint Motion to Terminate Proceeding (Paper 22) is *granted*, and the proceeding (IPR2020-01045) is terminated;

FURTHER ORDERED that, within 10 days, the parties shall file in the IPR2020-00040 proceeding a Joint Motion to Withdraw Joinder as to Petitioners Teva Pharmaceuticals USA, Inc. and Watson Laboratories, Inc. Before filing the Joint Motion to Withdraw Joinder, the moving parties are also instructed to confer with the other parties in IPR2020-00040, such that the moving parties are in a position to indicate to the Board upon filing of the motion whether the Joint Motion to Withdraw Joinder is unopposed.

IPR2020-01045  
Patent 7,326,708 B2

PETITIONER:

Keith Zullo  
[kzullo@goodwinprocter.com](mailto:kzullo@goodwinprocter.com)

Sarah Fischer  
[sfischer@goodwinprocter.com](mailto:sfischer@goodwinprocter.com)

PATENT OWNER:

Stanley Fisher  
[sfisher@wc.com](mailto:sfisher@wc.com)

Jessamyn Berniker  
[jberniker@wc.com](mailto:jberniker@wc.com)

Shaun Mahaffy  
[smahaffy@wc.com](mailto:smahaffy@wc.com)

Anthony Sheh  
[asheh@wc.com](mailto:asheh@wc.com)