

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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VIEWRAY, INC. and VIEWRAY TECHNOLOGIES, INC.,  
Petitioner,

v.

VARIAN MEDICAL SYSTEMS, INC.,  
Patent Owner.

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IPR2020-01251 (Patent 9,082,520 B2)  
IPR2020-01403 (Patent 9,082,520 B2)  
IPR2020-01465 (Patent 8,637,841 B2)

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Before BRIAN J. McNAMARA, PATRICK M. BOUCHER, and  
GARTH D. BAER *Administrative Patent Judges*.

BAER, *Administrative Patent Judge*.

DECISION  
Settlement Prior to Institution of Trial  
*37 C.F.R. § 42.74*

IPR2020-01251 (Patent 9,082,520 B2)  
IPR2020-01403 (Patent 9,082,520 B2)  
IPR2020-01465 (Patent 8,637,841 B2)

## I. INTRODUCTION

With the Board’s authorization, Petitioner and Patent Owner (collectively “the Parties”) filed a Joint Motion to Terminate/Joint Motion to Dismiss in each of the above-identified proceedings. Paper 11<sup>1</sup> (“Joint Motions”). In support of each Joint Motion, the Parties filed a copy of a Settlement Agreement (Ex. 1022), as well as a Joint Request to Keep Separate (Paper 12 (“Joint Request”)).

## II. DISCUSSION

In each of the Joint Motions, the Parties represent that they “have settled with respect to the challenged patent and have reached agreement to terminate this IPR” and that they “are also moving to dismiss related case *Varian Medical Systems, Inc. v. ViewRay, Inc. et al.*, 3:19-cv-05697-SI (N.D. Cal.) and do not contemplate any litigation or proceedings involving the challenged patent in the foreseeable future.” Joint Motion 1. The parties further represent that “there are no collateral agreements or understandings made in connection with, or in contemplation of, the termination of this IPR.” *Id.* at 3.

The above-referenced proceedings are each at an early stage, and we have not yet decided whether to institute trials. In view of the early stage of the proceedings and the settlement between the Parties, we determine that good cause exists to dismiss the petitions and terminate the proceedings with respect to the Parties.

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<sup>1</sup> For expediency, we cite to papers and exhibits in IPR2020-01251. Similar papers were filed in IPR2020-01403 and IPR2020-01465.

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In the Joint Requests, the Parties request that the Settlement Agreement be treated as business confidential information and be kept separate from the files of the patents involved in these proceedings. Joint Request 1. After reviewing the Settlement Agreement between Petitioner and Patent Owner, we 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 between Petitioner and Patent Owner as business confidential information pursuant to 37 C.F.R. § 42.74(c).

This Order does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

### III. ORDER

Accordingly, for the reasons discussed above, it is:

ORDERED that the Joint Motions are *granted*, and the petitions in IPR2020-01251, IPR2020-01403, and IPR2020-01465 are dismissed and these proceedings are *terminated*; and

FURTHER ORDERED that the Joint Requests are *granted*, and the Settlement Agreement shall be kept separate from the files of Patents 9,082,520 B2 and 8,637,841 B2 and be 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).

IPR2020-01251 (Patent 9,082,520 B2)

IPR2020-01403 (Patent 9,082,520 B2)

IPR2020-01465 (Patent 8,637,841 B2)

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