

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BAYER CROPSCIENCE LP,
Petitioner,

v.

EXOSECT LIMITED,
Patent Owner.

Case PGR2017-00018
Patent 9,380,739 B2

Before CHRISTOPHER L. CRUMBLEY, CHRISTOPHER M. KAISER,
and MICHELLE N. ANKENBRAND, *Administrative Patent Judges*.

KAISER, *Administrative Patent Judge*.

ORDER

Termination of the Proceedings
35 U.S.C. § 327(a) and 37 C.F.R. § 42.72

On January 15, 2018, the parties filed a Joint Motion to Terminate this proceeding pursuant to 35 U.S.C. § 327(a). Paper 18 (“Joint Motion to Terminate”). In addition, pursuant to 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(c), the parties filed a copy of a Settlement Agreement, Paper 19, along with a Joint Request to Treat Settlement Agreement as Business Confidential Information and to Keep the Agreement Separate, Paper 20.

Under 35 U.S.C. § 327(a), “[a] post-grant review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” In this case, the Board instituted trial on October 11, 2017. Paper 9. By stipulation of the parties, the Patent Owner Response is not due until January 29, 2018, and the Board has not yet decided the merits of the proceeding.

Under 37 C.F.R. § 42.72, “[t]he Board may terminate a trial without rendering a final written decision, where appropriate, including . . . pursuant to a joint request under 35 U.S.C. . . . [§] 327(a).” After reviewing the Joint Motion to Terminate and the Settlement Agreement, we determine that it is appropriate to terminate the proceeding without rendering a final written decision. Therefore, the Joint Motion to Terminate is GRANTED.

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Accordingly, it is

ORDERED that the Joint Request to Treat Settlement Agreement as Business Confidential Information is GRANTED, and the Settlement Agreement will be kept separate from the patent files; and

FURTHER ORDERED that the Joint Motion to Terminate is GRANTED and this proceeding is hereby TERMINATED.

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