

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ADELLO BIOLOGICS LLC,
Petitioner,

v.

AMGEN INC. and AMGEN MANUFACTURING LIMITED
Patent Owner.

Case PGR2019-00001
Patent No. 9,856,287 B2

Before ZHENYU YANG, CHRISTOPHER G. PAULRAJ, and
J. JOHN LEE, *Administrative Patent Judges*.

YANG, *Administrative Patent Judge*.

TERMINATION

Due to Settlement after Institution of Trial
35 U.S.C. § 327; 37 C.F.R. §§ 42.72, 42.74

With our authorization, Petitioner Adello Biologics, LLC and Patent Owner filed a Joint Motion to Terminate this proceeding pursuant to 35 U.S.C. § 327. Paper 25. Pursuant to 35 U.S.C. § 327(b), they filed a true and correct copy of a settlement agreement. Ex. 1052. In addition, they also jointly requested that the settlement agreement be filed as business confidential information, and be kept separate from the publicly available patent files. Paper 26.

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, although Patent Owner has filed its Patent Owner Response, the Board has not 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 with respect to Petitioner Adello.

We previously granted the Motion Requesting Adverse Judgment against Apotex Inc. and Apotex Corp. Paper 23. Under Section 327(a), “[i]f no petitioner remains in the post-grant review, the Office may terminate the review.” We determine that it is appropriate to terminate the proceeding in its entirety 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 Motion to Terminate is GRANTED and this proceeding is hereby TERMINATED; and

FURTHER ORDERED that the settlement agreement will be treated as business confidential information, and will be kept separate from the patent files.

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