

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PAR PHARMACEUTICAL, INC.,  
ARGENTUM PHARMACEUTICAL LLC, AND  
WEST-WARD PHARMACEUTICALS  
INTERNATIONAL LIMITED,  
Petitioners,

v.

NOVARTIS AG,  
Patent Owner.

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Case IPR2016-01479<sup>1</sup>  
Patent 9,006,224 B2

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Before LORA M. GREEN, CHRISTOPHER L. CRUMBLEY, and  
ROBERT A. POLLOCK, *Administrative Patent Judges*.

GREEN, *Administrative Patent Judge*.

JUDGMENT

Granting Joint Motion to Terminate as to Par  
Due to Settlement After Institution  
*35 U.S.C. § 317 and 37 C.F.R. §§ 42.72, 42.74*

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<sup>1</sup> Argentum Pharmaceutical LLC was joined as a party to this proceeding via a Motion for Joinder in IPR2017-01063; West-Ward Pharmaceuticals International Limited was joined as a party via a Motion for Joinder in IPR2017-01078.

On January 23, 2018, Petitioner Par Pharmaceutical, Inc. (“Petitioner Par”) and Patent Owner filed a Joint Motion to Terminate IPR as to Par Pursuant To 35 U.S.C. § 317. Paper 50. The parties filed a copy of their Settlement Agreement, made in connection with the termination of these proceedings, in accordance with 35 U.S.C. § 317 and 37 C.F.R. § 42.74. Ex. 2118. The parties also filed a Joint Request that the Settlement Agreement be treated as business confidential information, and be kept separate from the file of the involved patent, under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 51. In particular, Petitioner Par and Patent Owner request that the Settlement Agreement be maintained as viewable by the Board alone, and, thus, not accessible by Petitioners Argentum Pharmaceuticals LLC and West-Ward Pharmaceuticals International Limited (“Petitioners Argentum and West-Ward”). *Id.* at 2.<sup>2</sup>

The Board generally expects that a case “will terminate after the filing of a settlement agreement, unless the Board has already decided the merits.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14,

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<sup>2</sup> Patent Owner and Petitioner Par also seek entry of the default protective order with certain modifications to paragraphs 2(A)–(E) and 2(G) of that order. Paper 51, 2. We decline to make those modifications to the default protective order ourselves. As noted in this Order, we grant the parties request to designate the Settlement Agreement as Board only, and, therefore, do not consider a protective order necessary. If the parties wish to renew their request, they should file a joint motion to seal, as well as the default protective order with their proposed modifications. The parties should also file a copy of their proposed protective order showing all the changes from the default protective order in redline. *See* 37 C.F.R. § 42.54.

2012); *see* 37 C.F.R. § 42.72. In their Joint Motion to Terminate, Patent Owner and Petitioner Par aver that they “have settled their dispute.” Paper 50, 2. Although the Joint Motion to Terminate was filed after oral argument, it was filed before final written decision and a decision on the merits. In addition, the proceeding will continue as to Petitioners Argentum and West-Ward.

Upon consideration of the facts before us, we determine that it is appropriate to terminate this proceeding as to Petitioner Par and enter judgment, without rendering a final written decision. *See* 37 C.F.R. §§ 42.5(a), 42.71(a), 42.73(a), 42.74. Accordingly, we grant the Joint Motion to Terminate.

We also determine that the parties have complied with the requirements of 37 C.F.R. § 42.74(c) to have the Settlement Agreement treated as business confidential information and kept separate from the files of the patent at issue in this proceeding. Thus, we grant the Joint Request to treat the Settlement Agreement as business confidential, as well as keeping it designated as Board only.

We note, however, that as shown in the caption, Petitioners Argentum and Westward were joined to this proceeding, and, therefore, the proceeding will continue as to those Petitioners. *See* Paper 50, 2–3. Patent Owner and Petitioners Argentum and West-Ward should continue to file papers and exhibits in the instant proceeding, that is, IPR2016-01479.

ORDER

Accordingly, it is

ORDERED that the joint request of Patent Owner and Petitioner Par to treat the Settlement Agreement as business confidential information, to be kept separate from the patent file, is GRANTED;

FURTHER ORDERED that we GRANT the joint request of Patent Owner and Petitioner Par to maintain the Settlement Agreement as Board only;

FURTHER ORDERED that the joint motion to terminate the proceedings is GRANTED as to Petitioner Par; and

FURTHER ORDERED that the instant proceeding continues as between Petitioners Argentum Pharmaceuticals LLC and West-Ward Pharmaceuticals International Limited and Patent Owner.

PETITIONER:

Daniel Brown  
Jon Strang  
LATHAM & WATKINS, LLP  
daniel.brown@lw.com  
jonathan.strang@lw.com

PATENT OWNER:

Nicholas Kallas  
Raymond Mandra  
FITZPATRICK, CELLA, HARPER & SCINTO  
nkallas@fchs.com  
rmandra@fchs.com

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