

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARGENTUM PHARMACEUTICALS LLC and WEST-WARD
PHARMACEUTICALS INTERNATIONAL LIMITED n/k/a HIKMA
PHARMACEUTICALS INTERNATIONAL LIMITED,
Petitioners,

v.

NOVARTIS AG,
Patent Owner.

IPR2016-01479¹
Patent 9,006,224 B2

Before CHRISTOPHER L. CRUMBLEY, ROBERT A. POLLOCK, and
KRISTI L. R. SAWERT, *Administrative Patent Judges*.

CRUMBLEY, *Administrative Patent Judge*.

ORDER

Settlement as to Petitioner Hikma Pharmaceuticals
35 U.S.C. §§ 317; 37 C.F.R. § 47.74

¹ This proceeding as initially filed named Par Pharmaceutical, Inc. as the sole Petitioner. 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. Par subsequently requested termination of its participation in the proceeding pursuant to settlement, and we terminated the proceeding as between Par and Novartis. Papers 50, 52.

Pursuant to Board authorization, Petitioner Hikma Pharmaceuticals² and Patent Owner Novartis AG filed a Joint Motion to Terminate this *inter partes* review as to Hikma. Paper 57, “Mot.” 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. 2119. The parties also filed a Joint Motion to keep the Settlement Agreement confidential, along with a proposed Protective Order.³ Paper 58; Ex. 2120. In particular, Hikma and Novartis request that the Settlement Agreement be maintained as viewable by the Board alone, and, thus, not accessible by Petitioner Argentum Pharmaceuticals LLC. Paper 58 at 2.

Under 35 U.S.C. § 317(a), “[a]n *inter partes* review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” In this proceeding, the parties have settled their dispute, and the Board had not yet decided the merits of the parties’ dispute at the time the parties filed their

² West-Ward Pharmaceuticals International Limited updated its Mandatory Notices on January 8, 2019, notifying us that it changed its name to Hikma Pharmaceuticals International Limited. IPR2017-01078, Paper 11.

³ The statute and our Rules permit a party to a settlement agreement to “request” that the agreement be treated as business confidential information. 35 U.S.C. § 317(b); 37 C.F.R. § 42.74(c). A formal motion is not required, nor is a proposed protective order. For this reason, we deem the Joint Motion to keep the settlement agreement confidential (Paper 58) to be moot, but will treat the Motion as a “request” under the statute and our Rules.

IPR2016-01479
Patent 9,006,224 B2

Joint Motion. Given the joint request of the parties, we are required to terminate the review with respect to Hikma, as Petitioner.

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 parties' request to treat the Settlement Agreement as business confidential, as well as keeping it designated as Board only.

ORDER

In light of the foregoing, it is hereby:

ORDERED that the joint request to treat the settlement agreement (Ex. 2119) as business confidential information is *granted*;

FURTHER ORDERED that Exhibit 2119 shall be maintained as Board only, kept separate from the patent file, and be made available only to Federal government agencies on written request, or to any person on showing of good cause;

FURTHER ORDERED that the Joint Motion to Terminate Hikma as a Petitioner (Paper 57) is *granted*; and

FURTHER ORDERED that the proceeding is terminated as to Hikma Pharmaceuticals International Limited, but will continue as between Petitioner Argentum Pharmaceuticals LLC and Novartis.

IPR2016-01479
Patent 9,006,224 B2

FOR PETITIONER:

Daniel Brown
daniel.brown@lw.com

Jon Strang
jonathan.strang@lw.com

FOR PATENT OWNER:

Nicholas Kallas
nkallas@fchs.com

Raymond Mandra
rmandra@fchs.com