

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MYLAN PHARMACEUTICALS INC.,  
Petitioner,

v.

ICOS CORPORATION,  
Patent Owner.

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Case IPR2017-00323  
Patent 6,943,166 B1

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Before SHERIDAN K. SNEDDEN, SUSAN L. C. MITCHELL, and  
ZHENYU YANG, *Administrative Patent Judges*.

YANG, *Administrative Patent Judge*.

ORDER

Termination of the Proceeding Due to Settlement after Institution  
*35 U.S.C. § 317 and 37 C.F.R. § 42.72*

With our authorization, the parties filed a Joint Motion to Terminate this proceeding pursuant to 35 U.S.C. § 317(a). Paper 16. In addition, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), the parties filed a true and correct copy of a settlement agreement (Ex. 1038), along with a Joint Motion to Keep Settlement Agreement as Business Confidential Information, to be kept separate from the publicly available patent files. Paper 17.

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 case, the Board instituted trial on June 12, 2017. Paper 12. So far, Patent Owner has not filed its Patent Owner Response, and 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. 317(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 Motion to Terminate is GRANTED and this proceeding is hereby TERMINATED; and

FURTHER ORDERED that the Joint Motion to Keep Settlement Agreement as Business Confidential Information is GRANTED, and the settlement agreement will be kept separate from the patent files.

PETITIONER:

Steven W. Parmelee  
Michael T. Rosato  
Jad A. Mills  
WILSON SONSINI GOODRICH & ROSATI  
sparmelee@wsgr.com  
mrosato@wsgr.com  
jmills@wsgr.com

PATENT OWNER:

Mark J. Feldstein  
Joshua L. Goldberg  
Yieyie Yang  
Maureen D. Queler  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
mark.feldstein@finnegan.com  
joshua.goldberg@finnegan.com  
yieyie.yang@finnegan.com  
maureen.queler@finnegan.com

Mark J. Stewart  
Dan L. Wood  
ELI LILLY AND COMPANY  
stewart\_mark@lilly.com  
wood\_dan\_1@lilly.com