

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

ARGENTUM PHARMACEUTICALS LLC

Petitioner

v.

CIPLA LIMITED

Patent Owner

---

Case No. IPR2017-00807

U.S. Patent No. 8,168,620

---

**JOINT MOTION TO TERMINATE PROCEEDINGS  
PURSUANT TO 35 U.S.C. § 317**

***Mail Stop "PATENT BOARD"***

Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

As authorized in the Patent Trial and Appeal Board's e-mail dated May 16, 2018, and pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. §§ 42.72 and 42.74, Patent Owner and Petitioner jointly and respectfully request that the *inter partes* review ("IPR") of U.S. Patent No. 8,168,620 be terminated.

**I. Statement of Relief Requested**

Pursuant to 35 U.S.C. § 317, 37 C.F.R. § 42.72, and 37 C.F.R. § 42.74, and pursuant to the authorization to file this motion provided by the Board with the parties on May 16, 2018, Petitioner Argentum Pharmaceuticals LLC ("Argentum") and Patent Owner Cipla Limited ("Cipla") jointly request the termination of this *inter partes* review of U.S. Patent No. 8,168,620 in its entirety as a result of settlement between Petitioner and Patent Owner.

The parties have settled their dispute and executed a settlement agreement to terminate this *inter partes* review.

The parties' settlement agreement has been made in writing, and a true and correct copy is being filed concurrently herewith as Exhibit 2183. The parties are also filing concurrently herewith a joint request to treat the settlement agreement as business confidential information and keep it separate from the files of the IPR and the involved patent pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b) and (c).

## **II. Statement of Facts**

Petitioner filed this IPR petition on February 2, 2017. On August 21, 2017, the Board instituted *inter partes* review of claims 1, 4-6, 24-26, 29, and 42-44 of the '620 patent. On May 15, 2018, Petitioner and Patent Owner entered into a settlement agreement. *See* CIP2183 (Confidential). Argentum agrees to terminate this IPR proceeding.

The Board has not yet decided the merits of the pending IPR proceeding.

## **III. Argument**

35 U.S.C. § 317(a) provides: “An inter partes 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.” 35 U.S.C. § 317(a).

Similarly, 37 C.F.R. § 42.72 provides that “[t]he Board may terminate a trial without rendering a final written decision, where appropriate, including where the trial is consolidated with another proceeding or pursuant to a joint request under 35 U.S.C. 317(a).”

The Trial Practice Guide additionally counsels that “[t]here are strong public policy reasons to favor settlement between the parties to proceeding” and that the Board “expects that a proceeding will terminate after the filing of a settlement agreement, unless the Board has already decided the merits of the proceeding. 35

U.S.C. 317(a), as amended, and 35 U.S.C. 327.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012).

**A. Termination of this proceeding is proper.**

As noted in the Statement of Facts, oral argument has not yet occurred. Thus, the Board has not yet “decided the merits of the proceeding before the request for termination is filed.” 35 U.S.C. § 317(a); 77 Fed. Reg. 48768 (“The Board expects that a proceeding will terminate after the filing of a settlement agreement, unless the Board has already decided the merits of the proceeding.”). The Board has already cancelled the oral hearing that was scheduled to take place in this proceeding. Further, the parties are unaware of any other matter before the Board that would be affected by the outcome of this proceeding. Accordingly, the parties respectfully request that the Board terminate the *inter partes* review of U.S. Patent No. 8,168,620.

In the past, the Board has terminated the entire proceedings based on joint motions to terminate even after the merits had been fully briefed and the matter was ready for oral argument, or even after oral argument. *See Toyota Motor Corp. v. Blitzsafe Tex. LLC*, IPR2016-00421, Paper 28 (Feb. 21, 2017) (granting motion to terminate even after all substantive papers were filed, “particularly in light of the fact that a final written decision is not due until more than four months from now”); *Plaid Techs., Inc. v. Yodlee, Inc.*, IPR2016-00273, Paper 29 (Feb. 8, 2017)

(granting motion to terminate because “the parties’ joint motions to terminate were filed prior to the oral hearings in these cases”); *Apex v. Resmed*, IPR2013-00512, Paper 39 (Sept. 12, 2014) (granting joint motion to terminate after the parties had fully briefed the matter); *Rackspace Hosting, Inc. v. Clouding IP, LLC*, CBM2014-00034, Paper 28 (Dec. 9, 2014) (granting motion to terminate after close of evidentiary record and less than ten days before trial); *Volution v. Versata Software*, CBM2013-00018, Paper 52 (June 17, 2014) (granting motion to terminate after oral argument).

Further, because the Board has yet to conduct an oral hearing and issue a decision on the merits, termination of the entire proceeding would save the Board significant administrative resources. Termination would also further AIA’s purpose of providing an efficient and less costly alternative forum for patent disputes and its encouragement for settlement.

#### **IV. Related Litigations Involving The Patent At Issue**

Litigations involving the patent at issue in this proceeding are set forth below. As shown below, none of these litigations is currently pending as each has been resolved.

<b>Case</b>	<b>Defendant(s)</b>
<i>Meda Pharmaceuticals Inc. et al v. Apotex Inc. et al.</i> , 14-1453-LPS (D. Del.) (filed Dec. 2, 2014; settled May 17, 2017)	Apotex Inc. Apotex Corp.

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.