

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAWAI USA, INC. and SAWAI PHARMACEUTICAL CO., LTD.,  
Petitioner,

v.

ASTELLAS PHARMA INC.,  
Patent Owner.

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Case IPR2018-00079  
Patent 6,346,532 B1  
Reexamination 6,346,532 C1

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Before JAMES T. MOORE, SUSAN L. C. MITCHELL, and KRISTI L. R.  
SAWERT, *Administrative Patent Judges*.

SAWERT, *Administrative Patent Judge*.

DECISION

Granting Joint Motion to Terminate Proceeding  
*35 U.S.C. § 317(a); 37 C.F.R. §§ 42.72, 42.74*

IPR2018-00079  
Patent 6,346,532 B1  
Reexamination 6,346,532 C1

On May 29, 2018, Sawai USA, Inc. and Sawai Pharmaceutical Co., Ltd. (“Petitioner”) and Astellas Pharma Inc. (“Patent Owner”) filed a joint motion to terminate pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72, and a joint request to treat their settlement agreement as business confidential information, to be kept separate from the patent file, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 8. The joint motion was accompanied by a true, unredacted copy of a settlement agreement. Ex. 1026. We authorized filing of these papers during a conference call held on May 21, 2018.

The parties represent that they have settled their disputes involving the U.S. Patent No. 6,346,532 (“the ’532 patent”). Mot. 2. Additionally, the parties state that they have agreed to settle the claims and counterclaims related to the ’532 patent in the related district court litigation, *Astellas Pharma Inc. v. Sawai Pharm. Co.*, 16-cv-954 (D. Del.), and that the dismissal has been entered by the Court in that case. *Id.*

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, 2012); *see also* 37 C.F.R. § 42.72. We entered a Decision denying institution of *inter partes* review in this case on May 4, 2018. Paper 7. However, the deadline for filing a request for rehearing has not yet passed as of the filing of the parties’ joint motion to terminate. *See* 37 C.F.R. § 42.71(d). Under the circumstances presented here, therefore, we determine that it is appropriate to terminate this proceeding with respect to

IPR2018-00079  
Patent 6,346,532 B1  
Reexamination 6,346,532 C1

both Petitioner and Patent Owner. Accordingly, we grant the parties' 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.

Accordingly, it is

ORDERED that the joint motion to terminate the proceeding is GRANTED;

FURTHER ORDERED that the joint request to treat the parties' settlement agreement (Ex. 1026) as business confidential information, to be kept separate from the patent file, is GRANTED; and

FURTHER ORDERED that the instant proceeding is TERMINATED.

IPR2018-00079  
Patent 6,346,532 B1  
Reexamination 6,346,532 C1

PETITIONER:

Brian J. Sodikoff  
Martin Masar III  
KATTEN MUCHIN ROSEMAN LLP  
brian.sodikoff@kattenlaw.com  
martin.masar@kattenlaw.com

PATENT OWNER:

Robert L. Baechtold  
Scott K. Reed  
Simon D. Roberts  
FITZPATRICK, CELLA, HARPER & SCINTO  
astellas532ipr@fchs.com  
sreed@fchs.com  
sroberts@fchs.com