

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APOTEX INC. and APOTEX CORP.,
Petitioners,

v.

ABRAXIS BIOSCIENCE, LLC,
Patent Owner.

Case IPR2018-00151 (Patent 8,138,229 B2)
Case IPR2018-00152 (Patent 7,820,788 B2)
Case IPR2018-00153 (Patent 7,923,536 B2)

Before JEFFREY N. FREDMAN, RAMA G. ELLURU, and
SUSAN L. C. MITCHELL, *Administrative Patent Judges*.

FREDMAN, *Administrative Patent Judge*.

JUDGMENT

Termination of the Proceeding
35 U.S.C. § 317(a); 37 C.F.R. § 42.72

On January 29, 2018, pursuant to 35 U.S.C. § 317(a), the parties filed a Joint Motion to terminate each of the above-referenced proceedings. IPR2018-00151, Paper 11; IPR2018-00152, Paper 12;

IPRs 2018-00151, 2018-00152, 2018-00153
Patents 7,820,788 B2, 7,923,536 B2, 8,138,229 B2

IPR2018-00153, Paper 11¹. Accompanying the Motion, the parties filed a true copy of a settlement agreement along with a Joint Request to treat the settlement agreement as business confidential, to be kept separate from the patent file under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

IPR2018-00151, Paper 12; IPR2018-00152, Paper 13; IPR2018-00153, Paper 12. We authorized the filing of these papers in a Board email dated June 15, 2018.

We entered a Decision to Institute an *inter partes* review in each case on May 8, 2018. See IPR 2018-00151, Paper 10; IPR2018-00152, Paper 11; IPR2018-00153, Paper 11. Since our Decision, minimal briefing activity has occurred in this proceeding. The parties explain that termination is appropriate because (1) Petitioners and Patent Owner have settled their disputes and have agreed to terminate the proceeding, (2) the Office has not yet decided the merits of the proceeding, and (3) public policy favors the termination. See IPR2018-00151, Paper 11; IPR2018-00152, Paper 12; IPR2018-00153, Paper 11. At this juncture of the proceeding, the record does not contain full briefing on the trial issues and the Board has not entered a final decision.

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 37 C.F.R. § 42.72. Based on the facts of the case, it

¹ The motions in each proceeding are identical. Thus, we cite to the papers in IPR2018-00151 for convenience, unless otherwise specifically indicated.

IPRs 2018-00151, 2018-00152, 2018-00153
Patents 7,820,788 B2, 7,923,536 B2, 8,138,229 B2

is appropriate to enter judgment² and terminate the proceedings without rendering a final written decision. *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72. 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 patents at issue in these proceedings. Thus, the joint motions to terminate the proceeding and joint requests that the settlement agreement be treated as business confidential information are granted.

Accordingly, it is

ORDERED that the joint motions in IPR2018-00151, IPR2018-00152, and IPR2018-00153 to terminate these proceedings are *granted*;

FURTHER ORDERED that the proceedings in IPR2018-00151, IPR2018-00152, and IPR2018-00153 are *terminated*; and

FURTHER ORDERED that the parties' joint requests in IPR2018-00151, IPR2018-00152, and IPR2018-00153 that the settlement agreement be treated as business confidential information, to be kept separate from the patent file, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) are *granted*.

² A judgment means a final written decision by the Board, or a termination of a proceeding. 37 C.F.R. § 42.2.

IPRs 2018-00151, 2018-00152, 2018-00153
Patents 7,820,788 B2, 7,923,536 B2, 8,138,229 B2

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