

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC., and
DR. REDDY'S LABORATORIES, INC.,

Petitioners,

v.

HORIZON PHARMA USA, INC. and NUVO PHARMACEUTICALS
(IRELAND) DESIGNATED ACTIVITY COMPANY,

Patent Owners.

Case IPR2017-01995¹ (Patent 9,220,698 B2)
Case IPR2018-00272² (Patent 9,393,208 B2)

Before MICHELLE N. ANKENBRAND, *Acting Vice Chief Administrative
Patent Judge*, TONI R. SCHEINER and DEBRA L. DENNETT,
Administrative Patent Judges.

DENNETT, *Administrative Patent Judge*.

¹ We exercise our discretion to issue one order to be entered in both cases. The parties are not authorized to use this style heading for subsequent papers without prior Board approval.

² Petitioner Dr. Reddy's Laboratories, Inc. ("Dr. Reddy's"), from IPR2018-00894 and IPR2018-01341, has been joined as a Petitioner to IPR2017-01995 and IPR2018-00272, respectively.

IPR2017-01995 (Patent 9,220,698 B2)

IPR2018-00272 (Patent 9,393,208 B2)

JUDGMENT

Terminating the Proceeding
Granting Request to Treat Settlement Agreement
as Confidential Business Information
35 U.S.C. § 317(a); 37 C.F.R. § 42.72, 42.74(c)

On July 29, 2019, with our prior authorization, Mylan Pharmaceuticals Inc. (“Mylan”) and Patent Owners filed a Joint Motion to Terminate Petitioner Mylan in each of the above-referenced cases (“Joint Motion” or “Joint Mot.”). Paper 71.^{3,4} Accompanying the Joint Motion, Mylan and Patent Owners filed copies of a settlement agreement. Ex.1092. Mylan and Patent Owners request that we treat the settlement agreement as business confidential information, to be kept separate from the publicly available patent files, under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 72.

We instituted an *inter partes* review in IPR2017-01995 on March 8, 2018 (Paper 18) and in IPR2018-00272 on June 14, 2018 (Paper 9). Although there has been briefing and a hearing in these cases since institution, Mylan and Patent Owners state that termination is appropriate because the parties have resolved their disputes and executed a settlement agreement. Joint Mot. 2–3. Mylan and Patent Owners further represent that they have complied with all regulatory requirements for termination. *Id.* at 3.

³ The parties’ filed substantively similar papers and exhibits in each case. Unless otherwise noted, we cite to the papers and exhibit filed in IPR2018-00272 as representative.

⁴ Dr. Reddy’s is not a party to the Motions to Terminate.

IPR2017-01995 (Patent 9,220,698 B2)

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The Board generally expects that a case “will terminate after the filing of a settlement agreement, unless the Board has already decided the merits” of that case. Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012); *see* 37 C.F.R. § 42.72 (“The Board may terminate a trial without rendering a final written decision . . . pursuant to a joint request under 35 U.S.C. [§] 317(a).”) After reviewing the Joint Motion and the settlement agreement, we determine that it is appropriate to enter judgment and terminate Mylan as a petitioner in each of the cases without rendering a final written decision as to Mylan. *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72.

After reviewing the parties’ settlement agreement, we find that the agreement contains confidential business information regarding the terms of the settlement and good cause exists to treat the settlement agreement as business confidential information pursuant to 35 U.S.C. § 317(b).

Accordingly, it is

ORDERED that Mylan’s and Patent Owners’ Joint Motion to Terminate each case is *granted*;

FURTHER ORDERED that IPR2017-01995 and IPR2018-00272 are terminated with respect to Mylan;

FURTHER ORDERED that Mylan’s and Patent Owners’ joint requests that the Board treat the settlement agreement as business confidential information, to be kept separate from the patent file in each case, is *granted*.

IPR2017-01995 (Patent 9,220,698 B2)
IPR2018-00272 (Patent 9,393,208 B2)

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