

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WATERS TECHNOLOGIES CORPORATION,
Petitioner,

v.

BIOMEDICAL DEVICE CONSULTANTS & LABORATORIES OF
COLORADO, LLC,
Patent Owner.

Case IPR2018-00498
Patent 9,186,224 B2

Before TREVOR M. JEFFERSON, MIRIAM L. QUINN, and
JASON M. REPKO, *Administrative Patent Judges*.

REPKO, *Administrative Patent Judge*.

DECISION

Dismissing Petition

37 C.F.R. § 42.71

Granting Request to Treat Settlement Documents as Confidential Business
Information

37 C.F.R. § 42.74(c)

Petitioner, Waters Technologies Corporation, and Patent Owner, Biomedical Device Consultants & Laboratories of Colorado, LLC., jointly request to terminate¹ this *inter partes* review challenging U.S. Patent No. 9,186,224 B2 (“the ’224 Patent”). Paper 6 (“Motion”), 1–2. Along with the joint motion, the parties filed a settlement agreement covering the ’224 patent. Ex. 1019 (“Settlement Agreement”). The parties also have filed a joint request to have the Settlement Agreement treated as confidential business information under 37 C.F.R. § 42.74(c). Motion 2–3.

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). In this case, no decision on institution has been made. The parties submit that termination is appropriate because they have settled their dispute. Motion 1–2. Under the circumstances, we determine that it is appropriate to dismiss the petition. *See* 37 C.F.R. § 42.71(a).

After reviewing the Settlement Agreement between Petitioner and Patent Owner, we find that the Settlement Agreement contains confidential business information regarding the terms of settlement. We determine that it is appropriate to treat the Settlement Agreement between Petitioner and

¹ Although titled “JOINT MOTION TO TERMINATE PROCEEDING UNDER 35 USC §317(A),” (Paper 6), section 317(a) provides, in relevant part, “[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 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) (emphasis added). Because we have not yet issued a decision whether to institute this *inter partes* review, we treat the request as seeking dismissal of the petition.

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Patent Owner as business confidential information under 37 C.F.R.
§ 42.74(c).

ORDER

Accordingly, it is:

ORDERED that the Motion is *granted*;

FURTHER ORDERED that the petition in this proceeding is
dismissed; and

FURTHER ORDERED that the request that the Settlement
Agreement be treated as business confidential information and be kept
separate from the files of an involved patent or application under 37 C.F.R.
§ 42.74(c) is *granted*.

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PETITIONER:

Deborah M. Vernon, Ph.D.

Danielle Herritt

Mary Bourke

WOMBLE BOND DICKINSON (US) LLP

deborah.vernon@wbd-us.com

danielle.herritt@wbd-us.com

mary.bourke@wbd-us.com

PATENT OWNER:

Brad J. Hattenbach

Adam Floyd

Clinton Conner

DORSEY & WHITNEY, LLP

hattenbach.brad@dorsey.com

floyd.adam@dorsey.com

conner.clint@dorsey.com