

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARGENTUM PHARMACEUTICALS LLC,
APOTEX INC., and APOTEX CORP.,
Petitioner,

v.

ALCON RESEARCH, LTD.,
Patent Owner.

Case IPR2016-00544¹
Patent 8,791,154 B2

Before JENNIFER MEYER CHAGNON, CHRISTOPHER M. KAISER,
and CHRISTOPHER G. PAULRAJ, *Administrative Patent Judges*.

KAISER, *Administrative Patent Judge*.

ORDER
Termination of the Proceedings
35 U.S.C. § 317(a) and 37 C.F.R. § 42.72

¹ Petitioner Apotex Inc. and Apotex Corp. from IPR2016-01640 has been joined as a Petitioner to this proceeding.

On November 30, 2016, the parties filed a Joint Motion to Terminate this proceeding pursuant to 35 U.S.C. § 317(a). Paper 27. In addition, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), the parties filed true and correct copies of two separate Settlement and License Agreements. Ex. 2004; Ex. 2005. The Agreements were accompanied by joint requests to treat the Agreements as business confidential information, to be kept separate from the publicly available patent files. Paper 28; Paper 29.

Under 35 U.S.C. § 317(a), “[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 patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” In this case, the Board instituted trial on July 18, 2016, and Apotex Inc. and Apotex Corp. were joined as Petitioners on October 5, 2016. Paper 8; Paper 25. So far, Patent Owner has not filed its Patent Owner Response, and the Board has not decided the merits of the proceeding.

Under 37 C.F.R. § 42.72, “[t]he Board may terminate a trial without rendering a final written decision, where appropriate, including . . . pursuant to a joint request under 35 U.S.C. [§] 317(a).” After reviewing the Joint Motion to Terminate and the Agreements, we determine that it is appropriate to terminate the proceeding without rendering a final written decision. Therefore, the Joint Motion to Terminate is GRANTED.

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Accordingly, it is

ORDERED that the Joint Motion to Terminate is GRANTED and this proceeding is hereby TERMINATED; and

FURTHER ORDERED that the Joint Requests that Settlement Agreements Be Treated as Business Confidential Information and Kept Separate are GRANTED, and the Settlement and License Agreements will be kept separate from the patent files.

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