

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PFENEX INC.,  
Petitioner,

v.

GLAXOSMITHKLINE BIOLOGICALS SA,  
Patent Owner.

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IPR2019-01028  
Patent No. 9,422,345 B2

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Before SHERIDAN K. SNEDDEN, JO-ANNE M. KOKOSKI, and  
RICHARD J. SMITH, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION

Due to Settlement After Institution of Trial  
*35 U.S.C. § 317; 37 C.F.R § 42.74*

At the request of the parties, the Board authorized the parties to file a motion to terminate, settlement agreement, and motion to keep the settlement agreement business confidential. Ex. 3005. On October 30, 2020, the parties filed a Joint Motion to Terminate (Paper 57), and a Joint Request to File Settlement Materials as Business Confidential Information and to Maintain said Materials Separate from the Public File (Paper 58). The parties also filed a Confidential Settlement Agreement. Ex. 2049.

On November 3, 2020, the Board granted the Joint Request to File Settlement Materials as Business Confidential Information and to Maintain said Materials Separate from the Public File. Paper 60. The Board also denied, without prejudice, the Joint Motion to Terminate, but granted the parties leave to file an Amended Joint Motion to Terminate containing a certification that there are no other agreements or understandings between the parties made in connection with, or in contemplation of, the termination of the above-referenced proceeding.<sup>1</sup> *Id.* The Amended Joint Motion to Terminate, providing the certification, was filed on November 4, 2020.<sup>2</sup> Paper 61.

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<sup>1</sup> Paper 60 contains a typographical error at page 3, and should read “FURTHER ORDERED that the parties are granted leave to file an Amended Joint Motion to Terminate containing a certification that there are *no* other agreements or understandings no later than November 5, 2020.” Paper 60, 3.

<sup>2</sup> The certification in the Amended Joint Motion to Terminate refers to “Confidential Exhibit 1081.” Paper 61, 2–3. Because there is no Exhibit 1081, we understand that reference to be a typographical error that was meant to state “Confidential Exhibit 2049.”

Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement. Patent Trial and Appeal Board Consolidated Trial Practice Guide<sup>3</sup> 86. An oral hearing was held in the above-referenced case on September 9, 2020, but a final written decision has not been rendered. Based on the facts in this case, we determine that it is appropriate to terminate the above-referenced case without rendering a final written decision.

Accordingly, in consideration of the foregoing, it is hereby

ORDERED that the Amended Joint Motion to Terminate the above-referenced case (Paper 61) is GRANTED; and

FURTHER ORDERED that the *inter partes* review in IPR2019-01028 is TERMINATED.

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<sup>3</sup> Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

IPR2019-01028  
Patent 9,422,345 B2

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