

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APOTEX INC.,  
Petitioner,

v.

PFIZER INC.,  
Patent Owner.

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IPR2021-01132  
Patent US 6,890,927 B2

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Before JOHN G. NEW, SUSAN L.C. MITCHELL, and  
CHRISTOPHER G. PAULRAJ, *Administrative Patent Judges*.

NEW, *Administrative Patent Judge*.

DECISION  
Settlement Prior to Institution of Trial  
*37 C.F.R. § 42.74*

On October 21, 2021, with authorization of the Board, Petitioner Apotex Inc. (“Petitioner”) and Patent Owner Pfizer Inc. (“Patent Owner”) filed a joint motion to dismiss the petition and to terminate the proceeding. Paper 8.

In the motion, the parties explain that dismissal of the petition and termination of the proceeding is appropriate because the motion has been filed prior to institution. Paper 8 at 3. Specifically, the parties state that they have settled all of their disputes involving the challenged U.S. Patent No. 6,890,927 (“the ’927 patent”). *Id.* at 2.

The parties also represent that, pursuant to 37 C.F.R. § 42.74(b), the Parties’ settlement agreement made in contemplation of termination of this proceeding is in writing, and that a copy of the settlement agreement has been filed as Petitioner’s Exhibit 1025. *Id.* The parties jointly request that the settlement agreement, filed as Petitioner’s Exhibit 1025, be treated as business confidential information, and be kept separate from the files of the above captioned IPR pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). *Id.* at 4.

As Petitioner correctly asserts, this case is in the preliminary proceeding stage, and a decision whether to institute trial has not been entered. Under the circumstances, we conclude that it is appropriate to grant Petitioner’s unopposed motion to terminate the proceeding. Furthermore, we grant the parties joint request to treat the parties’ settlement agreement as business confidential information. The settlement agreement will be kept separate from the file of the ’927 patent, but will be part of the record in this proceeding and shall be made available only to Federal Government

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agencies on written request, or to any other person on a showing of good cause. *See* 35 U.S.C. § 317(b); 37 C.F.R. § 42.74(c).

### ORDER

Accordingly, it is hereby:

ORDERED that the parties' motion is granted with respect to the request to terminate the proceeding in IPR2021-01132; and

FURTHER ORDERED that the joint request that Exhibit 1025 be treated as business confidential information and kept separate from the file of U.S. Patent 9,056,289 B2, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

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