

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ÖSSUR HF AND ÖSSUR AMERICAS, INC.
Petitioners

v.

OTTO BOCK HEALTHCARE LP
Patent Owner

Case IPR2014-00145
Patent 6,726,726 B2

Before SCOTT E. KAMHOLZ, HYUN J. JUNG, and
SCOTT A. DANIELS, *Administrative Patent Judges*.

DANIELS, *Administrative Patent Judge*.

JUDGMENT
Termination of the Proceeding
37 C.F.R. § 42.74

Össur and Otto Bock executed a Settlement Agreement (Ex. 2015) on or about July 9, 2014, with respect to litigation in the United States District Court for the Central District of California, *Otto Bock HealthCare LP v. Össur hf and Össur Americas, Inc.*, Case No. SACV13-00891-CJC (ANx), and this inter partes review. The parties filed a joint stipulation for dismissal with prejudice on July 17, 2014, and the Court dismissed the case with prejudice on July 21, 2014.

Subsequently, the parties filed a Joint Motion to Terminate Proceedings Pursuant to 35 U.S.C. § 317, (Paper 22), accompanied by joint requests, (Papers 23, 25), to treat their Settlement Agreement, as well as prior Agreements referenced in the Settlement Agreement, as business confidential information pursuant to 35 U.S.C. § 317(b). The parties' written Settlement Agreement (Ex. 2015), and the referenced Agreements (Exs. 2016-17), were also filed.

For the reasons provided below, the joint motion to terminate is granted. The joint request that the settlement agreement be treated as business confidential information is also granted.

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." The parties stated in their motion that "[t]he parties have settled their dispute, and have reached agreement to terminate this *inter partes* review." Paper 22, 2.

The parties are reminded that the Board is not a party to the settlement, and may independently identify any question of patentability. 37 C.F.R.

§ 42.74(a). Generally, however, the Board expects that a proceeding will terminate after the filing of a settlement agreement. *See, e.g., Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). Otto Bock has not yet filed a Patent Owner Response, and we have not decided the merits of the proceeding.

In view of the parties' settlement agreement, we determine that it is appropriate to terminate the involvement of Össur. Moreover, in view of the early stage of this proceeding, and the concurrent settlement of the district court litigation, we determine that it also is appropriate to terminate the proceeding with respect to Otto Bock. As a result, it is appropriate to enter judgment in the form of termination and without rendering a final written decision. 37 C.F.R. § 42.72; *see* 37 C.F.R. § 42.2.

In consideration of the foregoing, it is hereby:

ORDERED that the parties' Joint Motion to Terminate Proceedings is *granted*, and this proceeding is terminated as to all parties;

FURTHER ORDERED that the parties' joint requests that the settlement Agreement and the referenced Agreements (Exs. 2015-2017) be treated as business confidential information and be kept separate from the patent files, under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), are *granted*.

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