

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMPLETE NUTRITION HOLDINGS, INC.,
Petitioner,

v.

VIREO SYSTEMS, INC.
and
BOARD OF REGENTS OF THE
UNIVERSITY OF NEBRASKA,
Patent Owner.

Case IPR2014-00451
Patent 8,354,450 B2

Before LINDA M. GAUDETTE, JACQUELINE WRIGHT BONILLA, and
ZHENYU YANG, *Administrative Patent Judges*.

BONILLA, *Administrative Patent Judge*.

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

On April 16, 2015, the parties filed a joint motion to terminate this proceeding (Paper 23), along with a true copy of their written settlement agreement (Ex. 1010). The parties indicated in their joint motion that termination of this proceeding is appropriate because they settled their dispute involving U.S. Patent No. 8,354,450 B2 (“the ’450 patent”). Paper 23, 2. The parties also indicated that they have resolved the related district court case involving the ’450 patent, *Complete Nutrition Holdings, Inc. v. Vireo Systems, Inc. and Board of Regents of the University of Nebraska*, Case Number 3:14-cv-00558 (M.D. Tenn.). *Id.* On the same day, the parties also filed another joint motion requesting that the settlement agreement be treated as business confidential information and kept separate from the file of the ’450 patent. Paper 24, 2.

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 the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.” We instituted a trial in this proceeding as to claim 19 of the ’450 patent (Paper 10) on September 2, 2014, but we have not decided yet the merits of this proceeding.

Further, under 37 C.F.R. § 42.74(b), “[a]ny agreement or understanding between the parties made in connection with, or in contemplation of, the termination of a proceeding shall be in writing and a true copy shall be filed with the Board before the termination of the trial.” As the parties have filed a true copy of their written settlement agreement, which encompasses both this proceeding and the related district court case, we determine that it is appropriate to terminate this proceeding without rendering a final written decision as to the patentability of claim 19 the ’450 patent. *See* 37 C.F.R. §§ 42.72, 42.74.

As requested by the parties, the settlement agreement will be treated as business confidential information and kept separate from the file of the '450 patent. 37 C.F.R. § 42.74(c).

Accordingly, it is

ORDERED that the parties' joint request that the settlement agreement be treated as business confidential information is GRANTED; and

FURTHER ORDERED that the joint motion to terminate the proceeding is GRANTED; and

FURTHER ORDERED that the proceeding is TERMINATED.

PETITIONER:

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