

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ARCHER-DANIELS-MIDLAND COMPANY,  
Petitioner,

v.

ARDENT MILLS, LLC,  
Patent Owner.

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Case IPR2014-00592  
Patent 8,404,298 B2

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Before LINDA M. GAUDETTE, GRACE KARAFFA OBERMANN, and  
JENNIFER M. MEYER, *Administrative Patent Judges*.

OBERMANN, *Administrative Patent Judge*.

JUDGMENT  
Termination of the Proceeding  
37 C.F.R. § 42.72

On April 2, 2015, pursuant to Board authorization, the petitioner, Archer-Daniels-Midland Company, and the patent owner, Ardent Mills LLC, filed a joint motion to terminate this *inter partes* review. Paper 28. With the joint motion, the parties filed a copy of a Settlement Agreement. Exhibit 2022. In the joint motion, counsel for both parties certify that the “Settlement Agreement represents a true copy of all agreements and understandings between the parties that are made in connection with, or in contemplation of, the termination of this proceeding.” Paper 28, 3. The parties request that the “Settlement Agreement be treated as business confidential information and be kept separate from the file of the involved patent, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).” *Id.*

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 proceeding, the Board instituted trial on September 9, 2014 (Paper 19), but has not yet reached a decision on the merits with respect to the patentability of any involved claim. Accordingly, the requirement for terminating review with respect to Archer-Daniels-Midland, as petitioner, is met.

Also under 35 U.S.C. § 317(a), “[i]f no petitioner remains in the *inter partes* review, the Office may terminate the review or proceed to a final written decision under section 318(a).” Archer-Daniels-Midland is the sole petitioner. The Board, therefore, has discretion to terminate this review with respect to the patent owner Ardent Mills.

In their joint motion, the parties contend that termination is appropriate because the parties have settled “their disputes relating to U.S. Patent 8,404,298 (‘the ’298 patent’)” and “have not completed submissions” that include “Motions for Observations, Motions to Exclude Evidence, responses, and replies thereto (falling due on April 17, May 1, and May 8, 2015, respectively).” Paper 28, 2. The parties also point out that the hearing, scheduled for May 21, 2015, has not yet occurred, and the Board has not yet decided the merits of the proceeding. *Id.*

Ardent Mills also indicates that the co-pending district court litigation identified in its Mandatory Notices (Paper 6), involving the ’298 patent, was settled on March 31, 2015, and that “no additional district court litigation is currently pending, and none is contemplated in the foreseeable future.” Paper 28, 3. The parties identify no pending related *inter partes* reviews.

Based on the record before us, we determine that it is appropriate to terminate this *inter partes* review both as to the petitioner, Archer-Daniels-Midland, and the patent owner, Ardent Mills, without rendering a final written decision. *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72.

It is

ORDERED that the parties’ joint request to have their settlement agreement (Exhibit 2022) treated as business confidential information, to be kept separate from the patent file, is *granted*;

FURTHER ORDERED that the joint motion to terminate this proceeding with respect to the petitioner, Archer-Daniels-Midland, is *granted*;

FURTHER ORDERED that the Board exercises its discretion to *grant* termination with respect to the patent owner, Ardent Mills; and

FURTHER ORDERED that this *inter partes* review is hereby *terminated*.

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