

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PACK PHARMACEUTICALS,
Petitioner,

v.

ALZA CORPORATION,
Patent Owner.

Case IPR2014-00868
Patent RE044459

Before FRANCISCO C. PRATS, JACQUELINE WRIGHT BONILLA, and
CHRISTOPHER M. KAISER, *Administrative Patent Judges*.

KAISER, *Administrative Patent Judge*.

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

On September 4, 2014, the parties filed a joint motion to terminate this proceeding. Paper 6 (“Joint Motion”). Accompanying that motion, the parties filed a settlement agreement resolving the dispute that is the subject of this proceeding. Ex. 1015 (“Settlement Agreement”). The parties request that the Settlement Agreement be treated “as business confidential information, which shall 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). Paper 8 (“Joint Request”).

This proceeding is still in its preliminary stages. Other than the pending Joint Motion and Joint Request, no significant activity has occurred since the filing of the Petition on May 30, 2014. Paper 1. Trial has not been instituted, and a preliminary response to the Petition is not due until September 10, 2014. Based on the facts of this case, it is appropriate to terminate this proceeding without rendering a final written decision. 37 C.F.R. § 42.72. Therefore, the Joint Motion is granted.

The only requirement for the Settlement Agreement to be kept separate and treated as business confidential information is for a party to the Settlement Agreement to request such treatment in a paper “filed with the settlement,” which must be “filed with the Board before the termination of the trial.” 37 C.F.R. § 42.74. Here, both parties request that the Settlement Agreement be kept separate and treated as business confidential information. Joint Request 2. The Joint Request was filed along with the Settlement Agreement, and both were filed before termination of the proceeding. *Id.* Accordingly, the Joint Request is granted. Pursuant to 37 C.F.R. § 42.74(c),

the Settlement Agreement “shall only be available (1) [t]o a Government agency on written request to the Board; or (2) [t]o any other person upon written request to the Board to make the settlement agreement available, along with the fee specified in [37 C.F.R. § 42.15(d)] and on a showing of good cause.”

It is

ORDERED that the joint motion to terminate the proceeding is *granted*; and

FURTHER ORDERED that the parties’ joint request that the Settlement Agreement (Ex. 1015) be treated as business confidential information and be kept separate from the file of U.S. Patent No. RE044459 is *granted*; and

FURTHER ORDERED that the Settlement Agreement (Ex. 1015) shall be made available only pursuant to the provisions of 37 C.F.R. § 42.74(c).

Case IPR2014-00868
Patent RE044459

For Petitioner:

Gary Speier
slw-ptab@slwip.com

Timothy Bianchi
tbianchi@slwip.com

Schwegman, Lundberg & Woessner, P.A.

For Patent Owner:

Joseph Lucci
jlucci@bakerlaw.com

David Farsiou
dfarsiou@bakerlaw.com

Baker & Hostetler LLP