

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EXCELSIOR MEDICAL CORPORATION,
Petitioner,

v.

BECTON, DICKINSON AND COMPANY,
Patent Owner.

Case IPR2014-00880
Patent 8,740,864 B2

Before PHILLIP J. KAUFFMAN, HYUN J. JUNG, and
MITCHELL G. WEATHERLY, *Administrative Patent Judges*.

WEATHERLY, *Administrative Patent Judge*.

JUDGMENT

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

The parties have requested that this trial be terminated pursuant to a settlement. On December 31, 2014, we authorized the parties via e-mail to file a joint request to terminate this proceeding and to file the settlement agreement as business confidential information under 37 C.F.R. § 42.74(c). The parties filed their motion later that day. Paper 15. With their joint

motion to terminate, the parties also filed a copy of a written settlement agreement that they request be kept confidential. Paper 16, 1; Ex. 1039.¹

Since we instituted a trial in this proceeding on November 25, 2014, the parties have filed no papers other than the joint motion to terminate. Thus, this proceeding is in its initial stages. The parties indicate that they have agreed to resolve all disputes between them related to the challenged patent including the district court litigation matters captioned *Excelsior Medical Corporation, et al v. Becton Dickinson and Company, et al*, 14-cv-03502 (D. N.J.) and *Ivera Medical Corporation and Becton, Dickinson and Company v. Excelsior Medical Corporation, Covidien LP, and Covidien Sales, LLC*, 14-cv-1348 (S.D. Cal.). Paper 15, 1–2. Under these circumstances, we determine that it is appropriate to enter judgment and terminate the trial without rendering a final written decision. 37 C.F.R. § 42.72.

Accordingly, it is

ORDERED that the Joint Motion to Terminate Proceeding under 35 U.S.C. § 317 and 37 C.F.R. § 42.74 is *granted*;

FURTHER ORDERED that the Joint Request to Treat Agreement as Business Confidential Information under 35 U.S.C. § 317 and 37 C.F.R. § 42.74(c), is *granted*.

¹ Papers 15 and 16 in this proceeding do not include page numbering. We refer to page numbers in those papers as if the page immediately following the cover page were enumerated as page 1.

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