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Paper 18
Entered: July 23, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

W. L. GORE & ASSOCIATES, INC.,
Petitioner,

v.

LIFEPORT SCIENCES LLC,
Patent Owner.

Case IPR2014-01320
Patent 6,117,167

Before PHILLIP J. KAUFFMAN, BENJAMIN D. M. WOOD, and BARRY L. GROSSMAN, *Administrative Patent Judges.*

GROSSMAN, *Administrative Patent Judge*.

ORDER
Termination of the Proceeding
37 U.S.C. § 317 and 37 C.F.R. § 42.72

Pursuant to authorization by the Board, LifePort Sciences, LLC ("Patent Owner") and W.L. Gore & Associates, Inc. ("Petitioner") filed a Joint Motion to Terminate, jointly requesting termination of this *inter partes* review proceeding (Paper 16 ("Joint Motion")) and a Joint Request to Keep Separate requesting that we treat as confidential the submitted settlement agreement (Paper 17 ("Joint Request")).

Under 35 U.S.C. § 317(a), an *inter partes* review proceeding shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Patent and Trademark Office has decided the merits of the proceeding before the request for termination is filed. This matter is in its preliminary stage. A Decision to Institute was entered on February 25, 2015 (Paper 7). By Stipulation (Paper 15), a Patent Owner Response is not due until July 29, 2015, and has not yet been filed. Thus, the merits have not been decided and this proceeding is eligible for termination. Furthermore, 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)." Petitioner is the sole petitioner in this review. The Board has discretion to terminate this review with respect to Patent Owner.

Under 35 U.S.C. § 317(b), any agreement or understanding between the Patent Owner and a Petitioner, including any collateral agreements referred to in such agreement or understanding, made in connection with, or in contemplation of, the termination of the proceeding shall be in writing, and a true copy of such agreement or understanding shall be filed in the Office. Patent Owner and Petitioner state in the Joint Motion that the parties and Patent Owner's parent corporation, Acacia Research Corporation, have agreed to settle their dispute and have reached a written agreement to terminate this proceeding. Joint Motion 2. In

support of the Joint Motion, the parties submitted Exhibit 2001 as evidence of their agreement. The parties also state there are no collateral agreements or understandings in connection with, or in contemplation of, the termination of this proceeding. *Id*.

Upon consideration of the facts in the case before us, we grant the Joint Motion and terminate this proceeding as to both Petitioner and Patent Owner without rendering a final written decision. 37 C.F.R. § 42.74. We also grant the Joint Request to maintain Exhibit 2001 as business confidential in accordance with 37 C.F.R. § 42.74(c).

ORDER

Accordingly, it is:

ORDERED that the Joint Motion to Terminate this proceeding is *granted* and, accordingly, this proceeding is hereby *terminated*; and

FURTHER ORDERED that the parties' Joint Request that the agreement (Ex. 2001) submitted in support of the Joint Motion be treated as business confidential information, to be kept separate from the file of U.S. Patent No. 6,117,167, and made available only under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), is *granted*.

FOR PETITIONER:

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