

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TERUMO CARDIOVASCULAR SYSTEMS CORPORATION,
Petitioner,

v.

SHEILAH D. KING and ALLEN PAIGE KING,
Patent Owner.

Case IPR2015-00263
Patent 6,423,268 B1

Before MICHAEL W. KIM, HYUN J. JUNG, and JAMES A. WORTH,
Administrative Patent Judges.

JUNG, *Administrative Patent Judge.*

ORDER

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

Pursuant to authorization by the Board via email sent September 1, 2015, Terumo Cardiovascular Systems Corporation (“Petitioner”) and Sheilah D. King and Allen Paige King (“Patent Owner”) filed a Joint Motion to Terminate Proceeding under 35 U.S.C. § 317 (Paper 17, “Mot.”) and a Joint Request to File Settlement Agreement as Business Confidential Information Pursuant to 35 U.S.C. § 317 (Paper 18).

Under 35 U.S.C. § 317(a), an *inter partes* review proceeding shall be terminated with respect to any petitioner upon the 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. The present proceeding is in its preliminary stage. A Decision to Institute was entered June 1, 2015 (Paper 15). Neither party has filed any substantive papers subsequent to the Decision to Institute. The merits have not been decided, and this proceeding is eligible for termination. *See* Mot. 2. 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 the present review, and 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 Patent Owner and 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 that they have settled their dispute and have reached agreement to terminate this proceeding. Mot. 1. In support of

their joint motion, the parties filed Exhibit 1038 as a true copy of their written agreement. *Id.*

Upon consideration of record 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. § 42.72. We also grant the joint request to maintain Exhibit 1038 as business confidential in accordance with 37 C.F.R. § 42.74(c).

ORDER

Accordingly, it is:

ORDERED that the Joint Motion to Terminate Proceeding under 35 U.S.C. § 317 is *granted*, and accordingly, this proceeding is hereby *terminated*; and

FURTHER ORDERED that the Joint Request to File Settlement Agreement as Business Confidential Information Pursuant to 35 U.S.C. § 317 is *granted*, and thus, Exhibit 1038 is to be treated as business confidential information, to be kept separate from the file of U.S. Patent No. 6,423,268 B1, and made available only under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

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