

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AGILA SPECIALTIES INC. and MYLAN LABORATORIES LIMITED,
Petitioner,

v.

CEPHALON, INC.,
Patent Owner.

Case IPR2015-00503
Patent 8,436,190 B2

Before LINDA M. GAUDETTE, JACQUELINE WRIGHT BONILLA, and
ZHENYU YANG, *Administrative Patent Judges*.

YANG, *Administrative Patent Judge*.

ORDER

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

On November 13, 2015, the parties filed a Joint Motion to Terminate this proceeding pursuant to 35 U.S.C. § 317. Paper 19. In addition, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), the parties filed a true and correct copy of a Settlement Agreement, along with a Joint Motion to File Settlement Agreement as Business Confidential, to be kept separate from the publicly available patent files.

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 case, Patent Owner has not filed its Patent Owner Response, and the Board has not decided the merits of the proceeding.

Under 37 C.F.R. § 42.72, “[T]he Board may terminate a trial without rendering a final written decision, where appropriate, including . . . pursuant to a joint request under 35 U.S.C. 317(a).” After reviewing the Joint Motion to Terminate and the Settlement Agreement, we determine that it is appropriate to terminate the proceeding without rendering a final written decision. Therefore, the Joint Motion to Terminate is GRANTED.

Accordingly, it is

ORDERED that the Joint Motion to Terminate is GRANTED and the proceeding is hereby TERMINATED; and

FURTHER ORDERED that the Joint Motion to File Settlement Agreement as Business Confidential is GRANTED, and the Settlement Agreement will be kept separate from the patent files.

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