

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BIOMET SPINE, LLC,
Petitioner,

v.

TLIF, LLC,
Patent Owner.

IPR2015-00738
Patent 6,143,032

Before MEREDITH C. PETRAVICK, ERICA A. FRANKLIN and
RICHARD E. RICE, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

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

INTRODUCTION

On August 20, 2015, the parties filed a joint motion to terminate the instant proceeding (Paper 10), along with a true copy of their written settlement agreement made in connection with the termination of the instant proceeding (Ex. 2005). The parties also filed a joint request to treat the

settlement agreement as business confidential information. Paper 11. The Board authorized these filings via email on August 18, 2015. For the reasons set forth below, the motion and request are granted.

DISCUSSION

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 initial stages. A decision on institution has not yet issued. Thus, the merits have not been decided. 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. The parties state that they have settled their dispute and have reached a written agreement to terminate this proceeding. Paper 10, 2. In support of the joint motion, the parties submitted a true copy of their written agreement as Exhibit 2005.

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 2005 as business confidential in accordance with 37 C.F.R. § 42.74(c).

CONCLUSION

It is:

ORDERED that the joint motion to terminate the proceeding is *granted*, and this proceeding is, hereby, *terminated*; and

FURTHER ORDERED that the parties' joint request that the settlement agreement be treated as business confidential information and kept separate from the file of the involved patent under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) is *granted*.

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