

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THERMO FISHER SCIENTIFIC INC., LIFE TECHNOLOGIES CORP.,
AND ION TORRENT SYSTEMS, INC,
Petitioners,

v.

454 LIFE SCIENCES CORP.,
Patent Owner.

Case IPR2016-00316; Patent 8,748,102 B2
Case IPR2016-00319; Patent 8,765,380 B2
Case IPR2016-00321; Patent 7,323,305 B2¹

Before TONI SCHEINER, LORA M. GREEN, and
ROBERT A. POLLOCK, *Administrative Patent Judges*.

GREEN, *Administrative Patent Judge*.

JUDGMENT

Granting Joint Motion to Terminate Due to Settlement After Institution and
Granting Request to Treat Agreements as Business Confidential Information
35 U.S.C. § 317 and 37 C.F.R. §§ 42.72, 42.74

¹ This order addresses issues that are the same in the identified cases. We exercise our discretion to issue one order to be filed in each case. The parties are authorized to use this style heading when filing a single paper in the listed proceedings, provided that such heading includes a footnote attesting that “the word-for-word identical paper is filed in each proceeding identified in the heading.”

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On April 5, 2017, Petitioner and Patent Owner filed a Joint Motion To Terminate Proceeding Pursuant To 35 U.S.C. § 317 and 37 C.F.R. § 42.74. Paper 44.² The parties filed a copy of their Settlement Agreement, made in connection with the termination of these proceedings, in accordance with 37 C.F.R. § 42.74(b). Ex. 1148; Paper 44, 3. The parties also filed a Joint Request To File Agreement As Business Confidential Information under 35 U.S.C. § 317 and 37 C.F.R. § 42.74(c). Paper 45.

The Board generally expects that a case “will terminate after the filing of a settlement agreement, unless the Board has already decided the merits.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012); *see* 37 C.F.R. § 42.72. In their Joint Motion to Terminate, the parties indicate that they have settled their disputes. *See* Paper 44, 2. The parties also aver that the settlement agreement has been made in writing and meets the requirements of 35 U.S.C. § 317(b). *Id.* at 3. The Joint Motion to Terminate was filed before oral argument, *see* Paper 44 (authorizing parties to file joint motion to terminate and rescheduling oral argument for April 17, 2017), and, thus, before final written decision and a decision on the merits.

Upon consideration of the facts before us, we determine that it is appropriate to terminate this proceeding and enter judgment, without

² The parties filed the same Joint Motion to Terminate, Joint Request to Treat Settlement Agreement as Business Confidential Information, and Settlement Agreement in each of the three cases. Thus, for purposes of the Order, we cite only to the paper and exhibit numbers in IPR2016-00316.

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rendering a final written decision. *See* 37 C.F.R. §§ 42.5(a), 42.71(a), 42.73(a), 42.74. Accordingly, we grant the Joint Motion to Terminate.

We also determine that the parties have complied with the requirements of 37 C.F.R. § 42.74(c) to have the Settlement Agreement treated as business confidential information and kept separate from the files of the patent at issue in this proceeding. Thus, we grant the Joint Request to treat the Settlement Agreement as business confidential.

ORDER

Accordingly, it is

ORDERED that the joint request to treat the Settlement Agreement as business confidential information, to be kept separate from the patent file, is GRANTED;

FURTHER ORDERED that the joint motion to terminate the proceedings is GRANTED; and

FURTHER ORDERED that the instant proceeding is TERMINATED.

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