

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SMITH & NEPHEW, INC. and
ARTHROCARE CORP.,
Petitioners,

v.

ARTHREX, INC.,
Patent Owner.

Case IPR2016-00854
Patent 5,993,451

Before WILLIAM V. SAINDON, BARRY L. GROSSMAN, and
TIMOTHY J. GOODSON, *Administrative Patent Judges*.

GOODSON, *Administrative Patent Judge*.

ORDER

Granting Joint Motion to Terminate After Institution Due to Settlement
35 U.S.C. § 317 and 37 C.F.R. § 42.72

After receiving our authorization, Smith & Nephew, Inc. and ArthroCare Corp. (“Petitioners”) and Arthrex, Inc. (“Patent Owner”) filed a Joint Motion to Terminate, in which the parties jointly request termination of this proceeding due to settlement. *See* Paper 19. The parties also filed Exhibit 1023, which the parties represent is a true and correct copy of the settlement agreement. *Id.* at 1.

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. In this proceeding, trial was instituted on October 12, 2016. Paper 8. Patent Owner has not yet filed its Response. The Board has not decided the merits of this proceeding. We grant the Joint Motion to Terminate and terminate this proceeding as to both Petitioner and Patent Owner without rendering a final written decision. *See* 37 C.F.R. § 42.72.

The Parties also jointly request, pursuant to 37 C.F.R. § 42.74(c), that the settlement agreement in Exhibit 1023 be treated as business confidential information and be kept separate from the files of the involved patent. *See* Paper 20. We grant that request as well.

Accordingly, it is hereby:

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

FURTHER ORDERED that the parties’ request that Exhibit 1023 be treated as business confidential information and kept separate from the files of the involved patent is *granted*.

IPR2016-00854
Patent 5,993,451

PETITIONERS:

Richard Giunta
Randy Pritzker
James Morris
WOLF GREENFIELD & SACKS, P.C.
RGiunta-PTAB@wolfgreenfield.com
RPritzker-PTAB@wolfgreenfield.com
JMorris-PTAB@wolfgreenfield.com

PATENT OWNER:

Anthony Cho
Timothy Murphy
CARLSON, GASKY & OLDS, P.C.
acho@cgolaw.com
tmurphy@cgolaw.com