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Paper No. 36
Entered: January 9, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THERMO FISHER SCIENTIFIC INC.,
Petitioner,

v.

BIO-RAD LABORATORIES, INC.,
Patent Owner.

Case IPR2017-00054
Patent 8,236,504 B2

Before SHERIDAN K. SNEDDEN, ZHENYU YANG, and CHRISTOPHER G. PAULRAJ, *Administrative Patent Judges*.

YANG, *Administrative Patent Judge*.

ORDER
Termination of the Proceeding Due to Settlement after Institution
*35 U.S.C. § 317 and 37 C.F.R. § 42.72*

With our authorization, the parties filed a Joint Motion to Terminate this proceeding pursuant to 35 U.S.C. § 317(a). Paper 33. 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 (Ex. 1051), along with a Joint Request to File Settlement Agreement as Business Confidential Information, to be kept separate from the publicly available patent files. Paper 35.

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, the Board instituted trial on March 17, 2017. Paper 8. So far, even though the briefing has been completed, the Board has not decided the merits of the proceeding.[1]

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)." Here, the parties have reached agreement in not only the present case, but also the related proceeding IPR2017-00055 (*see* Paper 33, 2), as well as *Bio-Rad Labs, Inc. v. Thermo Fisher Scientific Inc.*, Case No. 16-358 (D. Del.) (*see* Ex. 3001). According to the parties, "all disputes between the parties regarding U.S. Patent No. 8,236,504 have been resolved." Paper 33, 2.

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[1] The parties filed the Joint Motion to Terminate on December 13, 2017, before the scheduled oral hearing. *See* Paper 32.

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 this proceeding is hereby TERMINATED; and

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

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