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Paper 10
Entered: April 20, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VARIAN MEDICAL SYSTEMS INTERNATIONAL AG,
Petitioner,

v.

ELEKTA, INC.,
Patent Owner.

Case IPR2017-00764
Patent 7,961,843 B2

Before LYNNE E. PETTIGREW, PATRICK M. BOUCHER, and GARTH D. BAER, *Administrative Patent Judges.*

PETTIGREW, *Administrative Patent Judge.*

DECISION

Granting Motion to Terminate
37 C.F.R. §§ 42.5(a) and 42.71(a)

and

Granting Request to Treat Settlement Agreement as
Business Confidential Information
37 C.F.R. § 42.74(c)

On April 12, 2017, the parties filed a joint motion to terminate this proceeding. Paper 7. The parties also filed a true copy of their settlement agreement, Ex. 1025, accompanied by a joint request to treat the settlement agreement as business confidential information pursuant to 37 C.F.R. § 42.74(c), Paper 8.

The parties indicate in their joint motion that the dispute between the parties regarding U.S. Patent No. 7,961,843 ("the '843 patent") has been resolved. Paper 7, 1. Specifically, the parties state that they jointly agree to terminate this proceeding, they have stipulated to dismiss the related district litigation, and they concurrently have filed motions to terminate in IPR2017-00763, IPR2017-00884, and IPR2017-00885, in which the '843 patent is also at issue. *Id.* at 1–2.

This proceeding is at an early stage. Petitioner filed a petition for *inter partes* review of claims 1–6 of the '843 patent on January 25, 2017. Paper 2. Patent Owner has yet to file a Preliminary Response, and we have neither considered the merits of the Petition nor decided whether to institute trial.

Under the foregoing circumstances, we determine it is appropriate to dismiss the Petition. *See* 37 C.F.R. §§ 42.5(a), 42.71(a). We also determine it is appropriate to treat the parties' settlement agreement (Ex. 1025) as business confidential information to be kept separate from the files of the '843 patent.

This paper does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

Accordingly, it is hereby:

ORDERED that the joint motion to terminate the proceeding (Paper 7) is *granted*;

FURTHER ORDERED that the Petition for *inter partes* review of U.S. Patent No. 7,961,843 is *dismissed*;

FURTHER ORDERED that the joint request to treat the settlement agreement as business confidential information to be kept separate from the files of U.S. Patent No. 7,961,843 (Paper 8) is *granted*;

FURTHER ORDERED that Patent Owner's motion for pro hac vice admission of David S. Elkins (Paper 6) is *dismissed* as moot.

PETITIONER:

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