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Paper 40
Entered: November 7, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BOEHRINGER INGELHEIM PHARMACEUTICALS, INC.,
Petitioner,

v.

GENENTECH, INC.,
Patent Owner.

Case IPR2017-02029
Patent 6,870,034 B2

Before ERICA A. FRANKLIN, ZHENYU YANG and
ROBERT A. POLLOCK, *Administrative Patent Judges*.

POLLOCK, *Administrative Patent Judge*.

TERMINATION ORDER
Granting Joint Motion to Terminate Due to Settlement after Institution
35 U.S.C. § 317 and 37 C.F.R. §§ 42.72, 42.74

On November 5, 2018, Petitioner and Patent Owner filed a Joint Motion To Terminate Proceeding Pursuant To 35 U.S.C. § 317(a). Paper 36. 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. 1031. The parties also filed a Joint Request That Settlement Agreement be Treated as Business Confidential Information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 37.

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 the Settlement Agreement resolves all disputes between them involving the patent-at-issue in this proceeding. *See* Paper 36, 5. The Joint Motion to Terminate was filed before oral argument, *see* Paper 34 (Trial Order), 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 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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