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Paper No. 46
Entered: November 2, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SANDOZ INC.,
Petitioner,

v.

ABBVIE BIOTECHNOLOGY LTD.,
Patent Owner.

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Case IPR2017-02105[1] (Patent 9,090,689 B1)
Case IPR2017-02106 (Patent 9,067,992 B2)

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Before SUSAN L. C. MITCHELL, TINA E. HULSE, and MICHELLE N. ANKENBRAND, *Administrative Patent Judges.*

ANKENBRAND, *Administrative Patent Judge*.

JUDGMENT
Terminating the Proceeding
Granting Request to Treat Settlement Agreement
as Confidential Business Information
35 U.S.C. § 317(a); 37 C.F.R. § 42.72, 42.74(c)

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[1] We exercise our discretion to issue one order to be entered in both cases. The parties are not authorized to use this style heading for subsequent papers without prior Board approval.

On October 15, 2018, with our prior authorization, the parties filed a Joint Motion to Terminate the above-referenced cases ("Joint Motions" or "Joint Mot."). Paper 43.[2] Accompanying the Joint Motions, the parties filed copies of a settlement agreement. Ex. 2115. The parties request that we treat the settlement agreement as business confidential information, to be kept separate from the publicly available patent files, under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 45.

We instituted an *inter partes* review in each of the cases on April 3, 2018. Paper 14. Although there has been briefing activity in these cases since institution, the parties state that termination is appropriate because (1) the parties have resolved their disputes and executed a settlement agreement; (2) continuing with these cases would not be an efficient use of the Board's resources; and (3) no final written decision is due in these cases until April 2019. Joint Mot. 1–2. The parties further represent that they have complied with all regulatory requirements for termination, including reducing their settlement agreement to writing and providing a true copy of that agreement to the Board. *Id.* at 2.

The Board generally expects that a case "will terminate after the filing of a settlement agreement, unless the Board has already decided the merits" of that case. Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012); *see* 37 C.F.R. § 42.72 ("The Board may terminate a trial without rendering a final written decision . . . pursuant to a joint request under 35 U.S.C. [§] 317(a).") After reviewing the Joint Motions and the

[2] The parties' filed substantively similar papers and exhibits in each case. Unless otherwise noted, we cite to the papers and exhibit filed in IPR2017-02105 as representative.

settlement agreement, we determine that it is appropriate to enter judgment and terminate each of the cases without rendering a final written decision. *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72.

After reviewing the parties' settlement agreement, we find that the agreement contains confidential business information regarding the terms of the settlement and good cause exists to treat the settlement agreement as business confidential information pursuant to 35 U.S.C. § 317(b).

Accordingly, it is

ORDERED that the parties' Joint Motion to Terminate each case is *granted*;

FURTHER ORDERED that IPR2017-02105 and IPR2017-02106 are terminated;

FURTHER ORDERED that the parties' joint request that the Board treat the settlement agreement as business confidential information, to be kept separate from the patent file in each case, is *granted*.

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