

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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THERMIGEN, LLC AND THERMIAESTHETICS, LLC,  
Petitioner,

v.

VIVEVE, INC.,  
Patent Owner.

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Case IPR2018-00088  
Patent 8,961,511 B2

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Before HYUN J. JUNG, ROBERT A. POLLOCK, and  
SCOTT C. MOORE, *Administrative Patent Judges*.

POLLOCK, *Administrative Patent Judge*.

JUDGMENT  
TERMINATION OF THE PROCEEDING  
37 C.F.R. § 42.73

On June 8, 2018, and with authorization of the Board (*see* Ex. 3001), the parties filed a joint motion (Paper 10) to terminate this trial proceeding. *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72. The parties represent that they have “reached a settlement that resolves their dispute with respect to this *inter partes* review proceeding.” Paper 10, 1. With the motion, the parties filed a copy of the written settlement agreement. Ex. 1025. The parties request that the Board treat the settlement agreement as business confidential information under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 11.

This trial was instituted on May 8, 2018, and is in its early stages. Patent Owner has not yet filed a response. The parties represent that they filed a joint stipulation of dismissal of the only pending related litigation involving the ’511 patent, *Viveve, Inc. v. ThermiGen, LLC*, Case No. 2:16-cv-01189-JRG (E.D. Tex.), and the District Court has dismissed the case. Paper 10, 1. The written settlement agreement resolves the parties’ dispute in this matter. *See* Ex. 1025. The parties have also filed a joint motion to terminate co-pending case IPR2018-00089, which we grant concurrently.

Under these circumstances the Board determines that it is appropriate to terminate the trial without rendering a final written decision. 37 C.F.R. § 42.72.

It is, therefore,

**ORDERED** that the joint motion to terminate the proceeding is GRANTED and the proceeding is hereby terminated; and

**FURTHER ORDERED** that the parties’ joint request that the settlement agreement be treated as business confidential information is

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GRANTED. Pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), Exhibit 1025 shall be treated as business confidential information, kept separate from the file of the involved patents, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause.

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