

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE KROGER CO., MGPI PROCESSING, INC.,
and MGP INGREDIENTS, INC.,
Petitioner,

v.

HEALTHY FIBER LLC,
Patent Owner.

Case IPR2018-00824
Patent 9,668,488 B2

Before CHRISTOPHER L. CRUMBLEY, CHRISTOPHER M. KAISER,
and SHELDON M. McGEE, *Administrative Patent Judges*.

McGEE, *Administrative Patent Judge*.

ORDER
Termination of the Proceedings
35 U.S.C. § 317(a) and 37 C.F.R. § 42.72

Pursuant to our authorization (Paper 14) and 37 C.F.R. § 42.72, the parties filed a “Joint Motion to Terminate Proceeding and to Treat Settlement Agreement and Related Consideration Agreement as Business Confidential Information” on October 16, 2018. Paper 15 (“Joint Motion to Terminate”). In addition, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b) and (c), the parties filed true and correct copies of a Settlement and License Agreement (Paper 16, “Settlement Agreement”) and a Consideration Agreement (Paper 17) referred to in the Settlement Agreement.

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 September 21, 2018. Paper 12. The Board has not decided the merits of the proceeding because Patent Owner has not filed its Patent Owner Response, nor has Petitioner filed its Reply.

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).” After reviewing the Joint Motion to Terminate, and the Settlement and Consideration Agreements, 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;

FURTHER ORDERED that the Settlement Agreement and related Consideration Agreement will be kept separate from the patent files.

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PETITIONER:

Colin Turner
colin.turner@stinson.com

PATENT OWNER:

Mr. Israel Nissenbaum
inpdq@yahoo.com