

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SYNERGY PHARMACEUTICALS INC.,
Petitioner,

v.

IRONWOOD PHARMACEUTICALS, INC.,
Patent Owner.

Case IPR2018-01363
Patent 8,101,579 B2

Before SUSAN L. C. MITCHELL, CHRISTOPHER G. PAULRAJ, and
KRISTI L. R. SAWERT, *Administrative Patent Judges*.

PAULRAJ, *Administrative Patent Judge*.

ORDER

Granting Amended Joint Motion to Terminate Proceeding
Due to Settlement before Institution and
Granting Amended Joint Request to File Settlement Agreement as
Business Confidential Information
37 C.F.R. § 42.74

I. INTRODUCTION

Petitioner and Patent Owner (collectively referred to as “the Parties”) have requested that the above-identified *inter partes* review proceeding be terminated pursuant to a settlement. This is the Parties’ second request to terminate this proceeding, after our November 2, 2018 Order denied without prejudice the Parties’ October 17, 2018 request to terminate. In our prior Order, we gave authorization to file the present Motion. Paper 8, 3. On November 5, 2018, the Parties filed an Amended Joint Motion to Terminate this proceeding (“Amended Joint Motion”). Paper 9. Along with the Amended Joint Motion, the Parties filed a copy of a Settlement Agreement (titled “First Amendment to the Binding Term Sheet”) (Ex. 1032¹), a copy of a Binding Term Sheet referenced by the Settlement Agreement (Ex. 1033), and an Amended Joint Request to File the Settlement Agreement as Business Confidential Information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (“Amended Joint Request”) (Paper 10).

II. DISCUSSION

In the Amended Joint Motion, the Parties represent that they have reached an agreement to jointly seek termination of the above-identified *inter partes* review proceeding and that the filed copy of the Settlement Agreement and is a true and correct copy. Paper 9, 1–2. The Parties further represent that the filed copy of the related Binding Term Sheet is the originally executed Binding Term Sheet. *Id.* at 2. The Parties further

¹ The Parties previously filed the same Settlement Agreement on October 17, 2018, also as Exhibit 1032.

represent that their Settlement Agreement resolves all currently pending Patent Office proceedings between the Parties involving the above-identified patent at issue and there are no district court proceedings related to the above-identified patent. *Id.*

This proceeding is at an early stage, and we have not yet decided whether to institute a trial this proceeding. In view of the early stage of this proceeding and the settlement between the Parties, we determine that good cause exists to terminate this proceeding with respect to the Parties.

The Parties also filed an Amended Joint Request that the Settlement Agreement and the related Binding Term Sheet be filed as business confidential information and be kept separate from the file of the patent involved in this proceeding. Paper 10. After reviewing the Settlement Agreement and the related Binding Term Sheet between Petitioner and Patent Owner, we find that the Settlement Agreement and the related Binding Term contains confidential business information regarding the terms of settlement. We determine that good cause exists to file both the Settlement Agreement and the related Binding Term Sheet between Petitioner and Patent Owner as business confidential information pursuant to 37 C.F.R. § 42.74(c).

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

III. ORDER

Accordingly, for the reasons discussed above, it is:

ORDERED that the Amended Joint Motion to Terminate is *granted*, and IPR2018-01363 is *terminated*;

FURTHER ORDERED that the Amended Joint Request to File the Settlement Agreement and the related Binding Term Sheet as Business Confidential Information is *granted*, and the Settlement Agreement (Ex. 1032) and the related Binding Term Sheet (Ex. 1033) shall be kept separate from the file of Patent 8,101,579 B2 and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 37 C.F.R. § 42.74(c).

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Patent 8,101,579 B2

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