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Paper No. 11
Entered: October 24, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PAR PHARMACEUTICAL, INC.,
Petitioners,

v.

HORIZON THERAPEUTICS, LLC,
Patent Owner.

Case IPR2018-01550
U.S. Patent 9,561,197 B2

Before TONI R. SCHEINER and RAMA G. ELLURU,
Administrative Patent Judges.

ELLURU, *Administrative Patent Judge*.

ORDER
Granting Joint Motion to Terminate Proceeding and Granting Joint Request to Treat Settlement Agreement as Business Confidential Information
35 U.S.C. § 317; 37 C.F.R. §§ 42.72, 42.74

On September 28, 2018, Petitioner Par Pharmaceutical, Inc. and Patent Owner Horizon Therapeutics, LLC ("the parties") filed a Joint Motion to Terminate in the instant proceeding. *See* Paper 8 ("Joint Mot."). According to the

parties, the settlement agreement resolves all currently pending Patent Office and District Court proceedings between the parties to this proceeding involving U.S. Patent 9,561,197 B2. Joint Mot. 2. The parties represent that they have reached an agreement jointly seeking termination of these *inter partes* review proceedings. *Id.* at 1–2. The parties also represent that they have agreed to dismiss related district court litigation, *Horizon Therapeutics, LLC v. Par Pharmaceutical, Inc.*, Civil Action No. 1:17-cv-05901- MAH-KM (D.N.J. filed Aug. 08, 2017). *Id.*

We have not yet instituted a trial in the instant proceeding. Briefing is, thus, not yet complete in the instant proceeding and a Final Written Decision has not yet been finalized. Accordingly, we grant the parties' request and terminate the proceeding. *See* 35 U.S.C. § 317(a).

Along with the Joint Motions, the parties filed copies of a Confidential Settlement and License Agreement (Exhibit 2001, "Settlement Agreement") in the instant proceeding and request that it be kept separate and confidential because of the inclusion of highly sensitive business confidential information that would substantially harm their business interests if publicly disclosed. *See* Paper 9 ("Joint Request"). We grant the request, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

The Parties further request that "the Board order that in the event a person or entity makes a written request, as stated in 37 C.F.R. § 42.74(c)(1)-(2), for access to the settlement agreement, that any such written request be served upon the parties on the day the written request is provided to the Board." Joint Request 1. We have no procedure to serve upon the parties a request for access to the Settlement Agreement, and, further, our regulations do not require us to do so. Therefore, we decline to issue an order regarding such requests.

Accordingly, for the reasons discussed above:

It is ORDERED that the Joint Motion to Terminate (Paper 8) is granted, and IPR2018-01550 is terminated with respect to Petitioner and Patent Owner pursuant to 37 C.F.R. § 42.72;

It is FURTHER ORDERED that the parties' joint request to treat the settlement agreement as business confidential information (Paper 9) is granted, and the Settlement Agreement (Exhibit 2001) shall be kept separate from the files of the involved patents, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c);

It is FURTHER ORDERED that the parties' request for notice of a request to access the settlement agreement is DENIED.

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