

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTERVET INC. a/k/a MERCK ANIMAL HEALTH,
Petitioner,

v.

BOEHRINGER INGELHEIM VETMEDICA, INC.,
Patent Owner.

Case IPR2019-00381
Patent 9,669,087 B2

Before TONI R. SCHEINER, GRACE KARAFFA OBERMANN,
and ZHENYU YANG, *Administrative Patent Judges*.

YANG, *Administrative Patent Judge*.

TERMINATION

Due to Settlement after Institution of Trial
35 U.S.C. § 317; 37 C.F.R. §§ 42.72, 42.74

With our authorization, the parties filed a Joint Motion to Terminate this proceeding pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.74. Paper 11. In addition, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), the parties filed a true and correct copy of a settlement agreement. Ex. 1080. The parties jointly requested that the settlement agreement be filed as business confidential information, and be kept separate from the publicly available patent files. Paper 12.

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, although the Board instituted trial, Patent Owner has not filed its Patent Owner Response, and the Board has not decided the merits of the proceeding.

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 agreement, 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; and

FURTHER ORDERED that the settlement agreement will be treated as business confidential information, and will be kept separate from the patent files.

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