

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NAUTILUS MEDICAL, INC.,
Petitioner,

v.

SORNA CORPORATION,
Patent Owner.

IPR2020-00766
Patent 8,045,214 B2

Before KRISTEN L. DROESCH, CHRISTA P. ZADO, and
SHEILA F. McSHANE, *Administrative Patent Judges*.

McSHANE, *Administrative Patent Judge*.

DECISION
Settlement Prior to Trial
37 C.F.R. § 42.74

On July 2, 2020, Petitioner and Patent Owner filed a Joint Motion to Terminate Pursuant to 35 U.S.C. § 317.¹ Paper 12 (“Motion”). In the Motion, the parties request that a confidential settlement agreement (Ex. 2001) be treated as business confidential information kept separate from the file of the involved patent. *See id.*

Generally, the Board expects that a proceeding will terminate after the filing of a settlement agreement, if the settlement agreement includes all parties. *See, e.g.*, PTAB Consolidated Trial Practice Guide 86 (July 2019).

The parties state that they have reached an agreement to terminate this proceeding. Motion 1. The parties represent that the settlement agreement between the parties “has been made in writing, and a true and correct copy shall be filed with this this Office.” *Id.* The parties further state that “[t]he settlement agreement is the only agreement between the parties associated with the settlement of the above captioned *inter partes* review, and no other collateral agreements exist.” *Id.*

This proceeding is in its early stages. Patent Owner has not filed a preliminary response. There has been no decision on whether to institute *inter partes* review.

At this early stage, we determine that termination is warranted for the reasons stated in the Motion to Terminate.

We further determine that the Settlement Agreement (Ex. 2001) filed by the parties constitutes business confidential information. Therefore, we

¹ The parties had earlier filed another Motion to Terminate (Paper 9), as well as a confidential settlement agreement (Paper 10). The Motion was denied without prejudice, and the parties were permitted to file a revised Motion to Terminate to address some deficiencies and to also refile the confidential settlement agreement as an exhibit. *See* Paper 11.

find there is good cause to grant the parties' request to treat the Settlement Agreement as business confidential and kept separate from the files of the '214 patent. Further, Exhibit 2001 replaces Paper 10 in the Board's electronic filing system, and Paper 10 shall therefore be expunged.

Accordingly, it is

ORDERED that the Motion to Terminate is *granted*;

FURTHER ORDERED that this proceeding is terminated with respect to both Petitioner and Patent Owner;

FURTHER ORDERED that Paper 10 be expunged; and

FURTHER ORDERED that the parties' request to treat the Settlement Agreement as business confidential and kept separate is *granted*, and Exhibit 2001 shall be treated as business confidential and kept separate from the files of the '214 patent, consistent with 37 C.F.R. § 42.74(b).

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