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571-272-7822

Paper 71
Entered: October 12, 2022

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUEST DIAGNOSTICS INCORPORATED,
Petitioner,

v.

RAVGEN, INC.,
Patent Owner.

IPR2021-00788 (Patent 7,332,277 B2)
IPR2021-00791 (Patent 7,727,720 B2)[1]

Before ZHENYU YANG, TIMOTHY G. MAJORS, and DAVID COTTA, *Administrative Patent Judges*.

MAJORS, *Administrative Patent Judge*.

TERMINATION
Due to Settlement After Institution of Trial and
Granting Joint Request to Treat Settlement Agreement as
Business Confidential Information
35 U.S.C. § 317; 37 C.F.R. § 42.74

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[1] This Order applies to each of the listed cases. We exercise our discretion to issue one Order to be docketed in each case. The parties, however, are not authorized to use this caption for any subsequent papers.

I. INTRODUCTION

Petitioner and Patent Owner (collectively "the Parties") have requested that the above-identified *inter partes* review proceedings be terminated pursuant to a settlement. On October 7, 2022, the Parties filed a Joint Motion to Terminate Proceeding ("Joint Motion") in each of the above-identified proceedings. Paper 69.[2] The Parties previously sought authorization to file the Joint Motions and received that authorization via email on October 7, 2022. Joint Motion 1. The Parties also filed a copy of a settlement agreement (Ex. 2307, "Settlement Agreement")[3] and filed a Joint Request to File Agreement as Business Confidential Information (Paper 70, "Joint Request") in each of the proceedings.

II. DISCUSSION

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 the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed." It is also provided in 35 U.S.C. § 317(a) that if no petitioner remains in the *inter partes* review, the Office may terminate the review.

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[2] For expediency, we cite to the Papers and Exhibits filed in IPR2021-00788, unless otherwise indicated. Similar Papers and Exhibits were filed in IPR2021-00791.

[3] As noted at page 1 of the Joint Motion, the parties initially filed a redacted copy of the Settlement Agreement with the Joint Motion and Joint Request. We contacted the parties via email on October 12, 2022, to inform them that this was not a "true copy" of the Settlement Agreement under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b). *See* Ex. 3003. The parties expunged the redacted copy of the Settlement Agreement and filed an unredacted copy of the Settlement Agreement as Exhibit 2307 in both proceedings, which we refer to herein.

In the Joint Motions, the Parties represent that they have reached an agreement to resolve all of their present disputes regarding Patent 7,332,277 and Patent 7,727,720, that the filed copy of the Settlement Agreement is a true and correct copy, and "there are no other agreements, oral or written, between the parties made in connection with, or in contemplation of, the termination of the proceeding." IPR2021-00788, Paper 69, 1–3; IPR2021-00791, Paper 64, 1–3.

We instituted trial in the above-identified proceedings. Paper 23. We have not yet decided the merits of the proceedings, and final written decisions have not been entered. Notwithstanding that the proceedings have moved beyond the preliminary stage, the Parties have shown adequately that termination of the proceedings is appropriate. Under these circumstances, we determine that good cause exists to terminate the proceedings with respect to the Parties.

The Parties also requested that the Settlement Agreement be treated as business confidential information and be kept separate from the files of Patent 7,332,277 and Patent 7,727,720. IPR2021-00788, Paper 70, 1; IPR2021-00791, Paper 65, 1. After reviewing the Settlement Agreement, we find that the Settlement Agreement contains confidential business information regarding the terms of settlement. We determine that good cause exists to treat the Settlement Agreement as business confidential information pursuant to 35 U.S.C. § 317(b) and 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 Joint Motions are *granted*, and IPR2021-00788 and IPR2021-00791 are *terminated* with respect to Petitioner and Patent Owner, pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72; and

FURTHER ORDERED that the Joint Requests are *granted*, and the Settlement Agreement shall be kept separate from the files of Patent 7,332,277 and Patent 7,727,720 and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

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