

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HUMAN POWER OF N COMPANY,
Petitioner,

v.

THERMOLIFE INTERNATIONAL, LLC,
Patent Owner.

IPR2022-00819
Patent 8,455,531 B2

Before ZHENYU YANG, ROBERT A. POLLOCK, and
MICHAEL A. VALEK, *Administrative Patent Judges*.

VALEK, *Administrative Patent Judge*.

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

On September 23, 2022, with authorization of the Board, the parties filed a joint motion to terminate the proceeding (paper 10) in light of a settlement agreement between the parties, a copy of their settlement agreement (Ex. 2023), and a joint request to treat that agreement as business confidential information under 35 U.S.C. § 317(b) (paper 11).

The parties explain that good cause exists to terminate this proceeding because the settlement agreement resolves their disputes in this proceeding, the proceeding is still at an early stage, and the parties do not contemplate any further litigation or proceeding involving the patent at issue. Paper 10, 1–2. Pursuant to 37 C.F.R. § 42.74(b), the parties represent that a true and correct copy of their settlement agreement has been filed as Petitioner’s Exhibit 2023. *Id.* at 1. The parties further represent that there are no other collateral agreements relating to the termination sought. *Id.*

In addition, the parties jointly request that the settlement agreement, filed as Exhibit 2023, be kept as a separate paper and made available only under the provisions of 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(c). The parties represent that they consider the settlement agreement to contain “sensitive business information” and state that its terms require the parties “to treat the settlement agreement as confidential information and limit their ability to share the settlement agreement or disclose its contents with third parties.” Paper 11, 1.

In view of the circumstances of this proceeding and the parties’ representations regarding their settlement, we agree that it is appropriate to grant the parties’ joint motion to terminate.

We also grant the parties’ joint request to treat the agreement in Exhibit 2023 as business confidential information. That exhibit will be kept

separate from the files of the challenged patent and shall be made available only to a Government agency on written request, or to other persons on a written request and showing of good cause. *See* 35 U.S.C. § 317(b); 37 C.F.R. § 42.74(c).

ORDER

Accordingly, it is:

ORDERED that the joint motion to terminate (paper 10) is granted and this proceeding is terminated; and

FURTHER ORDERED that the joint request that Exhibit 2023 be treated as business confidential information and kept separate from the file of U.S. Patent 8,455,531 B2 pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (paper 11) is granted.

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