

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALLEN MEDICAL SYSTEMS, INC. and HILL-ROM, INC.,
Petitioner,

v.

MIZUHO ORTHOPEDIC SYSTEMS, INC.,
Patent Owner.

IPR2022-00919 (Patent 9,713,562 B2)
IPR2022-00920 (Patent 10,888,481 B2)

Before JOHN G. NEW, BARRY L. GROSSMAN, and
JAMES J. MAYBERRY, *Administrative Patent Judges*.

MAYBERRY, *Administrative Patent Judge*.

TERMINATION¹

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

¹ This Termination Order addresses issues that are the same in the two above-identified proceedings. We exercise our discretion to issue one Termination Order to be entered in each proceeding. The Parties are not authorized to use this joint heading and filing style in their papers.

I. INTRODUCTION

With the Board’s authorization, Allen Medical Systems, Inc., and Hill-Rom, Inc. (collectively, “Petitioner”), and Mizuho Orthopedic Systems, Inc. (“Patent Owner”), (collectively, “the Parties”), filed Joint Motions to Terminate IPR2022-00919² and IPR2022-00920³. Paper 16⁴ (“Joint Motion”); *see also id.* at 1 (noting the Board’s authorization). The Parties also filed Joint Requests to File the Settlement Agreement as Business Information Pursuant to 35 U.S.C. § 317(b). Paper 17 (“Joint Request”). Together with the Joint Motion and Joint Request, the Parties filed a copy of a Confidential Settlement Agreement (Ex. 1010, “Settlement Agreement”).

II. DISCUSSION

A. Joint Motion

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.” 35 U.S.C. § 317(a) also provides that if no petitioner remains in the *inter partes* review, the Office may terminate the review.

In the Joint Motion, the Parties state that termination is appropriate in light of “the settlement of all disputes between the Parties, including all

² IPR2022-00919 challenged U.S. Patent No. 9,713,562 (the “’562 patent”). Joint Motion 1.

³ IPR2022-00920 challenged U.S. Patent No. 10,888,481 (the “’481 patent”). IPR2022-00920, Paper 16, 1.

⁴ Unless otherwise noted, we cite to papers and exhibits filed in IPR2022-00919. Substantively the same papers and exhibits related to the Motion have filed in IPR2022-00920.

IPR2022-00919 (Patent 9,713,562 B2)
IPR2022-00920 (Patent 10,888,481 B2)

disputes relating to the '562 patent.” Joint Motion 2 (referencing Ex. 1010); *see also* IPR2022-00920, Paper 16, 2 (contending that the Parties settled “all disputes relating to the '481 patent”). The Parties indicate that Exhibit 1010 represents a true copy of the Settlement Agreement, and that “[n]o other such agreements, written or oral, exist between or among the parties.” Joint Motion 1; *see* 35 U.S.C. § 317(a).

We instituted trial for the above-identified *inter partes* review proceedings on November 2, 2022. *See* Paper 12. We have not yet decided the merits of the proceedings, and a final written decision has not been entered in either proceeding. Under these circumstances and in view of the Parties’ settlement, we determine that good cause exists to terminate the proceedings.

B. Joint Request to Treat Settlement Agreement as Business Confidential

The Parties request that the Settlement Agreement be treated as business confidential information and kept separate from the file of the '562 patent and '481 patent. Joint Request 1. Consistent with 35 U.S.C. § 317(b), the Parties request that the Settlement Agreement “be made available only to Federal Government agencies on written request or to persons showing good cause.” *Id.*; *see* 35 U.S.C. § 317(b).

After reviewing the Settlement Agreement, we determine that good cause exists to treat the Settlement Agreement as business confidential information pursuant to 37 C.F.R. § 42.74(c), and we grant the Parties’ request in that regard.

III. ORDER

Accordingly, it is:

ORDERED that the Joint Motion (IPR2022-00919, Paper 16) is *granted*, and IPR2022-00919 is *terminated* with respect to Petitioner and Patent Owner;

FURTHER ORDERED that the Joint Request (IPR2022-00919, Paper 17) is *granted*, and the Settlement Agreement (IPR2022-00919, Ex. 1010) shall be kept separate from the file of U.S. Patent No. 9,713,562 B2, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 37 C.F.R. § 42.74(c);

FURTHER ORDERED that the Joint Motion (IPR2022-00920, Paper 16) is *granted*, and IPR2022-00920 is *terminated* with respect to Petitioner and Patent Owner; and

FURTHER ORDERED that the Joint Request (IPR2022-00920, Paper 17) is *granted*, and the Settlement Agreement (IPR2022-00920, Ex. 1010) shall be kept separate from the file of U.S. Patent No. 10,888,481 B2, and made available only to Federal Government agencies on written request, or to any person on a showing of good cause, pursuant to 37 C.F.R. § 42.74(c).

IPR2022-00919 (Patent 9,713,562 B2)
IPR2022-00920 (Patent 10,888,481 B2)

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