

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARETECH, LLC,
Petitioner,

v.

BIONESS INC.,
Patent Owner.

IPR2023-00492
Patent 9,682,000 B2

Before RYAN H. FLAX and MICHAEL A. VALEK,
Administrative Patent Judges.

FLAX, *Administrative Patent Judge.*

DECISION
Settlement Prior to Institution of Trial
Granting Joint Motion to Treat Settlement Agreement as Confidential
37 C.F.R. § 42.74

With our authorization, the parties filed a joint motion to terminate the proceeding (Paper 6) in light of a settlement agreement between the parties, a copy of their settlement agreement (Ex. 1039), and a joint request to treat that agreement as business confidential information under 35 U.S.C. § 317(b) (Paper 7).

The parties explain that termination is proper because the settlement agreement resolves their disputes, the proceeding is still at an early stage prior to institution, and the Board expects that a proceeding will terminate after the filing of a settlement agreement, unless it has already decided the merits of the proceeding. Paper 6, 2–4. Pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b), the parties represent that a true copy of their settlement agreement has been filed as Petitioner’s Exhibit 1039. *Id.* at 4. The parties also certify that “there are no other collateral agreements or understandings made between the parties in connection with, or in contemplation of, the termination of” this proceeding. *Id.*

In addition, the parties jointly request that the settlement agreement, 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). Paper 7. The parties represent that the settlement agreement “contains highly sensitive business confidential information of both Parties that would substantially harm their business interests if publicly disclosed” and that they “have agreed not to disclose the terms of the Settlement Agreement.” *Id.* at 2.

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

terminate and the joint request to treat the agreement in Exhibit 1039 as business confidential information.¹

ORDER

Accordingly, it is:

ORDERED that the joint motion to terminate is *granted* and this proceeding is terminated under 35 U.S.C. § 317(a) and 37 C.F.R. § 42.72; and

FURTHER ORDERED that the joint request that Exhibit 1039 be treated as business confidential information is *granted*, and this agreement shall be kept separate from the public file of U.S. Patent 9,682,000 B2, and made available only to Government agencies on written request, or to any person on written request and a showing of good cause, under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

¹ The parties alternatively move to dismiss pursuant to 37 C.F.R. § 42.71(a). Paper 6, 4–5. We do not reach this motion because we determine termination is proper under 35 U.S.C. § 317 and 37 C.F.R. § 42.74.

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