

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FUSION PHARMACEUTICALS, INC.,
Petitioner,

v.

UNIVERSITÄT HEIDELBERG AND THE EUROPEAN ATOMIC
ENERGY COMMUNITY (EURATOM), REPRESENTED BY THE
EUROPEAN COMMISSION,
Patent Owner.

IPR2023-00551
Patent 10,980,901 B2

Before ULRIKE W. JENKS, ZHENYU YANG, and
KIMBERLY MCGRAW, *Administrative Patent Judges*.

JENKS, *Administrative Patent Judge*.

TERMINATION
Due to Settlement After Institution of Trial
35 U.S.C. § 317; 37 C.F.R. § 42.74

I. INTRODUCTION

On March 1, 2024, and with our authorization (Ex. 3004), Petitioner and Patent Owner (collectively, “the Parties”) filed a joint motion to terminate the above-captioned *inter partes* review proceedings. Paper 18 (“Joint Motion”). Along with the Joint Motion, the Parties filed a copy of a license and settlement agreement (Ex. 1041 “License Agreement” and Ex. 1042, “Settlement Agreement” (together “the Agreements”)), as well as a joint motion requesting that the Agreements be treated as business confidential information and kept separate from the file of U.S. Patent No. 10,980,901 B2 (“the ’901 patent”). Paper 19, 1 (“Joint Request”).

II. DISCUSSION

In the Joint Motion, the Parties represent that the Agreements resolve their underlying dispute involving the ’901 patent. Joint Motion 1, 1. The Parties also represent that they have filed a true copy of the Agreements made in connection with, or in contemplation of, the termination of the above-captioned proceeding. *Id.* at 1. The Parties certify that “there are no other agreements or understandings, oral or written, between Patent Owners and Petitioner, including any collateral agreements, made in connection with, or in contemplation of, the termination of the present proceeding.” *Id.* at 1.

We instituted trial for the above-captioned *inter partes* review proceedings on August 15, 2023. *See* Paper 8. We have not yet decided the merits of the proceeding, and a final written decision has not been entered. Notwithstanding that the proceeding has moved beyond the preliminary stage, the Parties have shown adequately that the termination of the

proceeding is appropriate. Under these circumstances, we determine that good cause exists to terminate the proceeding with respect to the Parties.

The Parties also request that the Agreements be treated as business confidential information and kept separate from the file of the '901. Joint Request 1. After reviewing the Agreements, we find that they contain confidential business information regarding the terms of settlement. Thus, good cause exists to treat the Agreements as business confidential information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Accordingly, we *grant* the Joint Request.

This Order does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

III. ORDER

Accordingly, it is:

ORDERED that the Joint Motion to terminate (Paper 18) is *granted*, and IPR2023-00551 is *terminated* with respect to Petitioner and Patent Owner;

FURTHER ORDERED that the Joint Request to treat the License Agreement and the Settlement Agreement as business confidential information (Paper 19) is *granted*;

FURTHER ORDERED that the License Agreement (Ex. 1041) and the Settlement Agreement (Ex. 1042) shall be kept separate from the file of U.S. Patent No. 10,980,901 B2, 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); and

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FURTHER ORDERED that this paper does not constitute a final written decision pursuant to 35 U.S.C. § 318(a).

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