

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC., DR. REDDY'S LABORATORIES,
INC., DR. REDDY'S LABORATORIES, LTD., SUN
PHARMACEUTICAL INDUSTRIES LTD.,
SUN PHARMACEUTICAL INDUSTRIES, INC., and APOTEX INC.,
Petitioner,

v.

NOVO NORDISK A/S,
Patent Owner.

IPR2023-00724¹
Patent 10,335,462 B2

Before JOHN G. NEW, SUSAN L. C. MITCHELL, and
ROBERT A. POLLOCK, *Administrative Patent Judges*.

MITCHELL, *Administrative Patent Judge*.

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

¹ IPR2024-00009 (Dr. Reddy's Laboratories), IPR2024-00107 (Sun Pharmaceutical Industries), and IPR2024-00631 (Apotex Inc.) have been joined with this proceeding.

I. INTRODUCTION

On October 4, 2024, with Board authorization in an e-mail sent October 3, 2024, Petitioner Mylan Pharmaceuticals Inc. (“Mylan”) and Patent Owner Novo Nordisk A/S (“Patent Owner”) filed a “Joint Motion to Terminate” this proceeding. Paper 103 (“Mylan Motion”). Along with the Joint Motion, Mylan and Patent Owner filed copies of three documents each titled “Settlement Agreement.” Exs. 2657, 2658, 2659 (collectively, the “Mylan Agreements”).

Referring to the Mylan Agreements, the Motion states that “[t]here are no collateral agreements,” and that the “Settlement Agreements have been made in writing, and a true and correct copy of each Agreement will be concurrently filed,” which appear to be the Mylan Agreements. Mylan Motion 3. The Mylan Motion further states “Mylan and Novo have settled their dispute relating to the ’462 patent and related patents, and have agreed to move to terminate this inter partes review and to withdraw Novo’s motion for sanctions (Paper No. 70) and motion for additional discovery (Paper No. 71).” Mot. 3.

On October 7, 2024, with Board authorization in an e-mail sent the same day, Petitioner Sun Pharmaceutical Industries Ltd. and Sun Pharmaceutical Industries, Inc. (“Sun”), along with Patent Owner, filed a “Joint Motion to Terminate” (Paper 107) (the “Sun Motion”). Along with the Joint Motion, Sun and Patent Owner filed copies of three documents each titled “Settlement Agreement.” Exs. 2660–2662 (the “Sun Agreements”). The Sun Motion makes similar statements to those of Mylan regarding collateral agreements and true and correct copies of the Settlement Agreements. Paper 107, 2–3.

Also on October 7, 2024, with Board authorization, Petitioner Apotex Inc. and Patent Owner filed a “Joint Motion to Terminate” (Paper 110) (the “Apotex Motion”) and copies of three documents each titled “Settlement Agreement.” Exs. 2663–2665 (the “Apotex Agreements”). The Apotex Motion makes similar statements to those of Mylan regarding collateral agreements and true and correct copies of the Settlement Agreements. Paper 110, 3.

On October 8, 2024, with Board authorization, Petitioner Dr. Reddy’s Laboratories, Ltd. (“DRL”), along with Patent Owner, filed a “Joint Motion to Terminate” (Paper 113) (the “DRL Motion”). Along with the Joint Motion, DRL and Patent Owner filed copies of three documents each titled “Settlement Agreement.” Exs. 2666–2668 (the “DRL Agreements”). The DRL Motion makes similar statements to those of Mylan regarding collateral agreements and true and correct copies of the Settlement Agreements. Paper 113, 4–5.

Along with the Motion and Mylan Agreements, Mylan and Patent Owner filed a “Joint Request to Treat Settlement Agreement as Business Confidential.” Paper 104 (“Mylan Joint Request”). Sun, Apotex, and DRL also filed nearly identical Joint Requests. Papers 108 (“Sun Request”), 111 (“Apotex Request”), 114 (“DRL Request”).

II. DISCUSSION

On March 16, 2023, Petitioner Mylan filed a Petition requesting *inter partes* review of claims 1-10 of U.S. Patent No. 10,335,462 B2. Paper 1. On October 4, 2023, we instituted a trial. Paper 10. On April 25, 2023, we granted joinder to this case in IPR2024-00009 for DRL. Paper 49. On May 28, 2024, we granted joinder to this case in IPR2024-00107 for Sun. Paper

54. On September 11, 2024, we granted joinder to this case in IPR2024-00631 for Apotex. IPR2024-00631, Paper 22.

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, Petitioners Mylan, Sun, DRL, Apotex, and Patent Owner, have shown sufficiently that the termination of the proceeding is appropriate for each of them. Under these circumstances, we determine that good cause exists to terminate the proceeding with respect to each moving party.

In each of the four Requests, the parties (Mylan, Sun, Apotex, DRL, Patent Owner) also requested that the Settlement Agreements be treated as business confidential information and be kept separate from the file of the '462 patent. *See, e.g.*, Mylan Request 2. After reviewing the Mylan, Sun, Apotex, and DRL Agreements, we find that the Agreements contain confidential business information regarding the terms of settlements. We determine that good cause exists to treat the Mylan, Sun, Apotex, and DRL Agreements 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

In consideration of the foregoing, it is hereby:

ORDERED that the Joint Motions to Dismiss (Papers 103, 107, 110, 113) are *granted*, the petition in IPR2023-00724 is dismissed, and the proceeding is *terminated*;

FURTHER ORDERED that the Joint Requests to Treat Settlement Agreements as Business Confidential Information (Papers 104, 108, 111, 114) are *granted*, and each Settlement Agreement (Exs. 2657–2668) shall remain designated as “Board” only in Board’s filing system, shall made available only to Federal Government agencies on written request, or to any person on a showing of good cause, and shall be kept separate from the files of the involved patents and associated preliminary proceedings, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c);

FURTHER ORDERED that the Motions in Papers 70 and 71 are *dismissed* as withdrawn by Patent Owner.

IPR2023-00724
Patent 10,335,462

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IPR2023-00724
Patent 10,335,462

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