

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CALA HEALTH, INC,
Petitioner,

v.

EMKINETICS INC.,
Patent Owner.

IPR2024-00732, Patent 10,786,669 B2
IPR2024-00743, Patent 11,628,300 B2¹

Before ERICA A. FRANKLIN, JOHN G. NEW, and JASON W. MELVIN,
Administrative Patent Judges.

PER CURIAM.

Granting Parties' Joint Request that the Confidential Settlement Agreement
be Treated as Business Confidential Information
37 C.F.R. § 42.74(c)

¹ The combined caption is for administrative convenience only and does not indicate that IPR2024-00732 and IPR2024-00743 are joined. The parties are not authorized to use this caption without express prior permission of the Board.

On July 12, 2024 Petitioner Cala Health, Inc. and Patent Owner EMKinetics Inc. (jointly, the “parties”) submitted, with our authorization, a Joint Motion to Dismiss the Petition (the “Motions”) in each of IPR2024-00732 (Paper 6) and IPR2024-00743 (Paper 6), respectively. The parties, however, did not follow our earlier instruction to file a copy of their Settlement Agreement along with the Motions. In their Motions, the parties jointly request, *inter alia*, that the Board grant the motions without requiring submission of the parties’ Settlement Agreement. Motions, 1².

On July 18, 2024, we issued an Order requiring the parties to submit a true copy their Settlement Agreement. Paper 7. Parties now jointly request that the Confidential Settlement Agreement (marked now as Exhibit 1022), referenced in the Motion to Dismiss (Paper 6), be treated as business confidential information. Paper 8, 1. The parties further jointly request that the Confidential Settlement Agreement be kept separate from the file of the patent involved in the *inter partes* review and not be made available to any other party without meeting the requirements of 37 C.F.R. § 42.74(c)(1)–(2). The parties state that the Confidential Settlement Agreement includes terms that would cause competitive harm to the Parties if publicly disclosed.

Under 37 C.F.R. § 42.74(c), a party may request that a settlement agreement be treated as business confidential information and be kept separate from the files of an involved patent or application. If a timely request is filed, the settlement shall only be available: (1) to a Government agency on written request to the Board; or (2) to any other person upon

² For the purpose of this Order, citations to the Motions and requests are to the parties’ Papers submitted in IPR2024-00732. The arguments in IPR2024-00743 are identical.

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written request to the Board to make the settlement agreement available, along with the fee specified in § 42.15(d) and on a showing of good cause. 37 C.F.R. § 42.74(c)(1)–(2).

The parties have timely filed the Confidential Settlement Agreement as Exhibit 1022. The parties joint request is *granted*, and the Confidential Settlement Agreement will be treated as business confidential information and be kept separate from the files of an involved patent or application, as set forth in Section 42.74(c) of our Rules.

IT IS SO ORDERED

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PETITIONER:

Joshua Stowell
KNOBBE MARTENS
2jys@knobbe.com

PATENT OWNER:

David Gerasimow
THE LAW OFFICES OF DAVID A. GERASIMOW, P.C.
dave@gerasimowlaw.com

Eran Steinberg
THERANOVA, LLC
venture@erasteinberg.com