

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

XENCOR, INC.,
Petitioner

v.

MERUS N.V.,
Patent Owner

Case IPR2025-00604
Patent No. 9,358,286

**JOINT MOTION TO TERMINATE *INTER PARTES* REVIEW OF
U.S. PATENT NO. 9,358,286 UNDER 35 U.S.C. § 317 AND 37 C.F.R. § 42.72**

Pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.72, Petitioner Xencor, Inc. (“Xencor”) and Patent Owner Merus N.V. (“Merus”) (collectively, the “Parties”) jointly move to terminate the above-captioned *inter partes* review proceeding pursuant to the Parties’ settlement of their dispute related to the challenged patent, U.S. Patent No. 9,358,286 (the “’286 Patent”). This joint motion was authorized by the Board in its email dated July 7, 2026. Along with this joint motion to terminate this proceeding, the Parties concurrently submit a true copy of the Parties’ confidential agreement (“Agreement”) as Exhibit 1063 along with a motion to keep the Agreement confidential and separate from the file of the ’286 Patent pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74. There are no other agreements, written or oral, between the Parties made in connection with, or in contemplation of, the termination of this proceeding.

I. ARGUMENT

A joint motion to terminate generally must “(1) include a brief explanation as to why termination is appropriate; (2) identify all parties in any related litigation involving the patents at issue; (3) identify any related proceedings currently before the Office; and (4) discuss specifically the current status of each such related litigation or proceeding with respect to each party to the litigation or proceeding.” *Heartland Tanning, Inc. v. Sunless, Inc.*, IPR2014-00018, Paper 26 at 2 (PTAB July 28, 2014).

A. Why Termination Is Appropriate

Termination is appropriate because the Parties have settled this case, and the Agreement resolves all disputes related to the '286 Patent between the Parties. The Parties are concurrently filing a copy of the Agreement as Exhibit 1063 along with a motion to treat it as confidential business information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74. In view of that request, Exhibit 1063 has been filed for access “Available Only to Board.”

Pursuant to 37 C.F.R. § 42.74(b), the Parties acknowledge that, as of the filing of this Motion and the concurrent Motion to Keep Confidential, that Exhibit 1063 represents the entire agreement or understanding between the Parties made in connection with, or in contemplation of, the termination of this proceeding, and further, that Exhibit 1063 is a true and accurate copy of the Agreement between the Parties that resolves the present proceeding.

The Board granted institution of *inter partes* review of the above-captioned proceeding on September 26, 2025. Merus filed its Patent Owner Response on January 9, 2026. Xencor filed its Petitioner’s Reply on April 3, 2026, and Merus filed its Patent Owner Sur-reply on April 24, 2026. The Board has scheduled oral argument for 1:00 PM (ET) on July 17, 2026. The Board has yet to decide the merits of this proceeding. The parties have now settled their dispute and have reached agreement to terminate the petition.

Public policy favors terminating the present petition for *inter partes* review. Congress and federal courts have expressed a strong interest in encouraging settlement in litigation. *See Delta Air Lines, Inc. v. August*, 450 U.S. 346, 352 (1981) (“The purpose of [Federal Rule of Civil Procedure] 68 is to encourage the settlement of litigation.”); *Bergh v. Dep’t of Transp.*, 794 F.2d 1575, 1577 (Fed. Cir. 1986) (“The law favors settlement of cases.”). The Federal Circuit places a particularly strong emphasis on settlement. *See Cheyenne River Sioux Tribe v. United States*, 806 F.2d 1046, 1050 (Fed. Cir. 1986) (noting that the law favors settlement to “mitigate[] the antagonism and hostility” between parties). And the Board’s Trial Practice Guide stresses that “[t]here are strong public policy reasons to favor settlement between the parties to a proceeding.” Patent Trial and Appeal Board Consolidated Trial Practice Guide § II.N (Dec. 2025), <https://www.uspto.gov/patents/ptab/trial-practice-guide>. Accordingly, “[t]he Board expects that a proceeding will terminate after the filing of a settlement agreement, unless the Board has already decided the merits of the proceeding.” *Id.*

B. Identification of Parties and Status of Litigation

On August 5, 2024, Merus filed a complaint in the United States District Court for the District of Delaware (the “District Court”) alleging that Xencor infringed, *inter alia*, the ’286 Patent (the “District Court action”). *See generally Merus N.V. v. Xencor, Inc.*, C.A. No. 1-24-cv-00913-JCB (D. Del.). On October

10, 2024, Xencor filed a motion to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(6). The District Court granted Xencor's motion on September 30, 2025. On November 11, 2025, Merus filed its first amended complaint. Xencor moved to dismiss the first amended complaint on December 16, 2025. The District Court heard oral argument on Xencor's motion to dismiss the first amended complaint on February 17, 2026. The District Court has not yet decided Xencor's motion to dismiss Merus's first amended complaint. This parallel litigation will be dismissed with prejudice, pursuant to the Parties' settlement agreement.

C. Identification of Parties and Status of Proceedings Before the USPTO

Oral Argument is scheduled for July 17, 2026. *See* Paper No. 32; Paper No. 34. The Parties have now resolved their dispute and reached agreement to terminate this proceeding and parallel IPR2025-00605. The USPTO can conserve its resources by terminating now, removing the need for the Board to further consider the arguments and to render a Final Written Decision. Therefore, the Parties respectfully request termination of this inter partes review.

Dated: July 7, 2026

/s/ Elizabeth J. Holland

Elizabeth J. Holland

Registration No. 47,657

WHITE & CASE LLP

1221 Avenue of the Americas

New York, NY 10020

Phone: (212) 819-8200

elizabeth.holland@whitecase.com

Counsel for Patent Owner Merus N.V.

/Naveen Modi/

Naveen Modi

Registration No. 46,224

PAUL HASTINGS LLP

2050 M Street NW

Washington, DC 20036

Phone: (202) 551-1700

naveenmodi@paulhastings.com

Counsel for Petitioner Xencor, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2026, I caused a true and correct copy of the foregoing Joint Motion to Terminate *Inter Partes* Review of U.S. Patent No. 9,358,286 Under 35 U.S.C. § 317 and 37 C.F.R. § 42.72 to be served via email on Patent Owner at the following addresses:

Elizabeth J. Holland (Reg. No. 47,657)
E-mail: elizabeth.holland@whitecase.com

Daniel P. Margolis (*pro hac vice*)
E-mail: daniel.margolis@whitecase.com

Peter J. Armenio (Reg. No. 41,588)
E-mail: parmenio@cahill.com

Colleen Tracy James (Reg. No. 52,295)
E-mail: ctracyjames@cahill.com

Dated: July 7, 2026

/Naveen Modi/
Naveen Modi
Registration No. 46,224
PAUL HASTINGS LLP
2050 M Street NW
Washington, DC 20036
Phone: (202) 551-1700
naveenmodi@paulhastings.com

Counsel for Petitioner Xencor, Inc.