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Paper 16
Entered: December 20, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALNYLAM PHARMACEUTICALS, INC.,
Petitioner,

v.

SILENCE THERAPEUTICS GMBH,
Patent Owner.

Case PGR2018-00075[1] (Patent 9,783,802)
Case PGR2018-00088 (Patent 9,790,505)
Case PGR2018-00089 (Patent 9,790,501)

Before JO-ANNE M. KOKOSKI, JON B. TORNQUIST, and MONTÉ T. SQUIRE, *Administrative Patent Judges.*

SQUIRE, *Administrative Patent Judge.*

ORDER
Granting Joint Motion to Terminate Proceeding and Granting Joint Request to Treat Settlement Agreement as Business Confidential Information
35 U.S.C. § 327; 37 C.F.R. §§ 42.72, 42.74

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[1] We exercise our discretion to issue one order to be entered in all three cases. The parties are not authorized to use this style heading for subsequent papers without prior Board approval.

I. INTRODUCTION

On December 18, 2018, with our prior authorization,[2] Petitioner and Patent Owner (collectively referred to as "the Parties") filed a joint motion to terminate in each of the above-referenced cases ("Joint Motions" or "Joint Mot."). Paper 13.[3] Along with the Joint Motions, the Parties filed a confidential Settlement and License Agreement (Exhibit 1087, "Settlement Agreement"), as well as joint requests to treat the Settlement Agreement as business confidential information pursuant to 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(c) (Paper 14 ("Joint Req.")). The Parties represent that the filed copy of the Settlement Agreement is a true and correct copy. Joint Mot. 1.

II. DISCUSSION

Under 35 U.S.C. § 327(a), post-grant review proceedings "shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed."

In the Joint Motions, the Parties represent that they have entered into a settlement agreement. Joint Mot. 1. The Parties represent that their settlement agreement resolves all currently pending Office and District Court proceedings between them involving the patents at issue in these proceedings. *Id.* at 1–2. The Parties further represent that they have reached

[2] Filing of the Joint Motions was authorized via e-mail correspondence from Board personnel on December 17, 2018.
[3] The parties' filed substantively similar papers and exhibits in each case. Unless otherwise noted, we cite to the papers and exhibit filed in PGR2018-00075 as representative.

an agreement to jointly seek termination of these post-grant review proceedings. *Id.* at 2.

These proceedings are at an early stage, and we have not yet decided whether to institute trials. In view of the early stage of these proceedings and the settlement between the Parties, we determine that good cause exists to terminate these proceedings with respect to the Parties.

The Parties also filed a joint request in each case that the Settlement Agreement be treated as business confidential information and be kept separate from the file of the patent involved in the respective proceeding. Joint Req. 1. After reviewing the Settlement Agreement between Petitioner and Patent Owner, we find that the Settlement Agreement contains confidential business information regarding the terms of settlement. We determine that good cause exists to treat the Settlement Agreement between Petitioner and Patent Owner as business confidential information pursuant to 35 U.S.C. § 327(b) and 37 C.F.R. § 42.74(c).

This paper does not constitute a final written decision pursuant to 35 U.S.C. § 328(a).

III. ORDER

Accordingly, for the reasons discussed above, it is:

ORDERED that the Parties' joint motion to terminate each case (PGR2018-00075 (Paper 13), PGR2018-00088 (Paper 13), and PGR2018-00089 (Paper 13)) is *granted*;

FURTHER ORDERED that the Parties' joint request to treat the Settlement Agreement as business confidential information in each case is *granted*;

FURTHER ORDERED that the Settlement Agreement shall be kept separate from the files of U.S. Patent Nos. 9,783,802, 9,790,505, and 9,790,501, respectively, 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. § 327(b) and 37 C.F.R. § 42.74(c); and

FURTHER ORDERED that post-grant review proceedings PGR2018-00075, PGR2018-00088, and PGR2018-00089 are each hereby *terminated*.

PGR2018-00075 (Patent 9,783,802)
PGR2018-00088 (Patent 9,790,505)
PGR2018-00089 (Patent 9,790,501)

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