

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

METRICS, INC., MAYNE PHARMA, and JOHNSON MATTHEY, INC.,
Petitioner,

v.

SENJU PHARMACEUTICAL CO., LTD., BAUSCH & LOMB, INC., and
BAUSCH & LOMB PHARMA HOLDINGS CORP.,
Patent Owner.

Case IPR2014-01041 (Patent 8,129,431 B2)
Case IPR2014-01043 (Patent 8,669,290 B2)¹

Before FRANCISCO C. PRATS, ERICA A. FRANKLIN, and
GRACE KARAFFA OBERMANN, *Administrative Patent Judges*.

OBERMANN, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

¹ This order addresses issues common to both cases; therefore, we issue a single order to be entered in each case. The parties are authorized to use this style heading when filing an identical paper in both proceedings, provided that such heading includes a footnote attesting that “the word-for-word identical paper is filed in each proceeding identified in the heading.”

IPR2014-01041 (Patent 8,129,431 B2)

IPR2014-01043 (Patent 8,669,290 B2)

This Order addresses the briefing schedule relating to Motions for Joinder filed by a different Petitioner (“InnoPharma Licensing”) in two related proceedings. *See* IPR2015-00902, Paper 3; IPR2015-00903, Ex. 0. This Order modifies the Order entered April 17, 2015. Paper 31.² Petitioner (“Metrics”) is authorized to file, by May 26, 2015, an Opposition to the Motions for Joinder. That Opposition shall include Metrics’ position regarding InnoPharma Licensing’s Proposed Scheduling Order, which is due on May 19, 2015. That Opposition shall not exceed five (5) pages in length.

Based on information provided by counsel for Patent Owner (“Senju”), in an Order entered concurrently herewith in IPR2015-00902 and IPR2015-00903, the Board extends, to May 26, 2015, Senju’s time for filing an Opposition to InnoPharma Licensing’s Motions for Joinder in the related proceedings. *See* Appendix (copy of email transmissions between the Board and the parties). Instructions relating to that Opposition are provided in that Order. *See* IPR2015-00902, Paper 10; IPR2015-00903, Paper 8.

In that Order, the Board further authorizes InnoPharma Licensing to file a Consolidated Reply Brief, in all four proceedings, that addresses both Senju’s and Metrics’ Oppositions to the Motions for Joinder (as both Oppositions are now due on May 26, 2015). *Id.* Instructions relating to that Consolidated Reply Brief are provided in that Order *Id.*

² The paper numbers are identical in IPR2014-01041 and IPR2014-01043.

IPR2014-01041 (Patent 8,129,431 B2)
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It is
ORDERED Metrics is authorized to file, by May 26, 2015, an
Opposition to InnoPharma Licensing's Motions for Joinder;
FURTHER ORDERED that Metrics' Opposition shall include
Metrics' position regarding InnoPharma Licensing's Proposed Scheduling
Order, which is due on May 19, 2015; and
FURTHER ORDERED that the Opposition shall not exceed five (5)
pages in length.

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IPR2014-01041 (Patent 8,129,431 B2)
IPR2014-01043 (Patent 8,669,290 B2)

APPENDIX

Counsel: Based on the information provided by counsel, in IPR2014-00903 and -902, the Board extends, to May 26, 2015, Senju's time for filing an Opposition to InnoPharma Licensing's Motions for Joinder. That Opposition shall be a paper filed separately from Patent Owner's Preliminary Response, which is also due on May 26, 2015. That Opposition shall include Senju's position on InnoPharma Licensing's Proposed Scheduling Order, which is due for filing on May 19, 2015.

In addition, the Board authorizes InnoPharma Licensing to file a Consolidated Reply Brief, in all four proceedings, that addresses both Senju's and Metrics' Oppositions to Joinder (as both are now due on May 26, 2015). The time for filing that Consolidated Reply Brief shall be set for June 9, 2015. The Consolidated Reply Brief shall be limited to ten (10) pages in length. Orders to that effect will issue shortly.

Thank you,
Maria Vignone
Paralegal Operations Manager
Patent Trial and Appeal Board
[omitted]

From: Stroud, Jonathan [omitted]
Sent: Friday, April 17, 2015 5:27 PM
To: Trials
Cc: [omitted]
Subject: Request for Filing Date Clarification: IPR2014-01041, -01043, IPR2015-00903, IPR2015-00902

Board,

Counsel for Patent Owner in IPR2014-01041, IPR2014-01043, IPR2015-00903, IPR2015-00902 seeks clarification of today's Order in these four cases. *See, e.g.*, IPR2014-01041, Paper 31. In it, the Board indicated: "The time for filing of Senju's Oppositions to the Motions for Joinder remains April 19, 2015. *See* 37 C.F.R. § 42.25(a)(1)."

IPR2014-01041 (Patent 8,129,431 B2)

IPR2014-01043 (Patent 8,669,290 B2)

However, during the conference call of April 15, 2015, Judge Obermann indicated that the preliminary response would include any opposition to joinder. *See, e.g.*, IPR2014-01041, EX2026.

16 Your preliminary response, should you
17 decide to file one on April 30th, should include
18 any opposition to joinder. And at the same time

Subsequently during the call, Judge Obermann decided to move the Patent Owner Preliminary Response date to May 26, 2015. Given that the Order was entered on April 17, 2015, counsel for Senju seeks clarification as to when they should include their opposition to the motion for joinder and whether, like Metrics, the Patent Owner's opposition to the joinder motion should be due on May 26, 2015.

Thank you,

Jonathan Stroud
[omitted]