

Paper No. _____
Filed: July 1, 2015

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 No. 8,129,431

JOINT MOTION TO TERMINATE PROCEEDING

INTRODUCTION

Petitioner Metrics, Inc., Mayne Pharma, and Johnson Matthey, Inc. (collectively, “Metrics”), and Patent Owner Senju Pharmaceutical Co., Ltd., Bausch & Lomb, Inc., and Bausch & Lomb Pharma Holdings Corp. (collectively, “Senju”) have entered into a settlement agreement that resolves all underlying disputes between the parties, including the *inter partes* review proceeding IPR2014-01041, against U.S. Patent No. 8,129,431, currently before the Board.

The Board authorized the parties to file a joint motion to terminate this proceeding in an email sent to the parties on June 30, 2015. Accordingly, the parties jointly move to terminate this proceeding pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74.

The Board requested that the parties update the Board concerning the status of any litigation or proceeding, including, but not limited to proceedings in the U.S. Patent and Trademark Office, involving the subject patents, and advise the Board whether any litigation or proceeding involving the subject patents is contemplated in the foreseeable future. The Board also requested submission of a true copy of the parties’ agreement. The Parties consider the agreement Highly Confidential Business Information. In the June 30, 2015 e-mail, the Board also authorized filing of a motion to hold the agreement confidential pursuant to 37 C.F.R. § 42.74(c).

THE SETTLEMENT AGREEMENT

The parties have entered into a Confidential Settlement Agreement (the “Agreement”) settling their dispute involving two U.S. Patents, including U.S. Patent No. 8,129,431. The parties are filing a copy of the Agreement with this Joint Motion to Terminate Proceeding in IPR2014-01041, as Exhibit 2027. In addition, the parties have filed a request to treat the Agreement as Confidential Business Information under 37 C.F.R. § 42.74(c). As part of the Agreement, a Stipulated Consent Judgment and Injunction has been entered in the related district court litigation. (Exhibit 2028). As requested by the Board, the parties certify that there are no collateral agreements or understandings made in connection with, or in contemplation of, the termination of the *inter partes* review.

The parties also agreed to jointly request termination of all pending *inter partes* reviews filed by Petitioner Metrics against patents owned by Senju.

STATUS OF RELATED PROCEEDINGS

A. District Court Proceeding

The following are the related proceedings:

District Court Case	U.S. Patent Nos.	Status
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<p><i>Senju Pharm. Co. Ltd., Bausch & Lomb Inc. and Bausch & Lomb Pharma Holdings Corp. v. Lupin Ltd. and Lupin Pharms., Inc.</i>, No. 14-cv-00667 (D.N.J.)</p>	<p>8,129,431</p>	<p>Claim construction phase.</p>
<p><i>Senju Pharm. Co., Ltd., Bausch & Lomb, Inc. and Bausch & Lomb Pharma Holdings Corp. v. Metrics, Inc., Coastal Pharms., Inc., Mayne Pharma Group Ltd., and Mayne Pharma (USA), Inc.</i>, No. 14-cv-03962 (D.N.J.)</p>	<p>8,129,431 8,669,290 8,754,131</p>	<p>Stipulated Consent Judgment and Injunction entered on July 1, 2015.</p>
<p><i>Senju Pharm. Co., Ltd., Bausch & Lomb, Inc. and Bausch & Lomb Pharma Holdings Corp. v. Metrics, Inc., Coastal Pharms., Inc., Mayne Pharma Group Ltd., and Mayne Pharma (USA), Inc.</i>, No. 14-cv-04964 (D.N.J.)</p>	<p>8,129,431 8,669,290 8,754,131</p>	<p>Stipulation and Order of dismissal on May 4, 2015.</p>
<p><i>Senju Pharm. Co., Ltd., Bausch & Lomb, Inc. and Bausch & Lomb Pharma Holdings Corp. v. Metrics, Inc., Coastal Pharms., Inc., Mayne Pharma Group Limited,</i></p>	<p>8,129,431 8,669,290 8,754,131</p>	<p>Dismissed without prejudice on May 6, 2015.</p>

<i>and Mayne Pharma (USA), Inc., No. 14-cv-00141 (E.D.N.C.)</i>		
<i>Senju Pharm. Co., Ltd., Bausch & Lomb, Inc. and Bausch & Lomb Pharma Holdings Corp. v. Innopharma Licensing, Inc., Innopharma Licensing, LLC, Innopharma, Inc., and Innopharma LLC, No. 14-cv-06893 (D.N.J.)</i>	8,129,431 8,669,290 8,754,131 8,871,813	Claim construction phase.
<i>Senju Pharm. Co., Ltd., Bausch & Lomb Inc. and Bausch & Lomb Pharma Holdings Corp. v. Apotex Inc. and Apotex Corp., 15-cv-00336 (D.N.J.)</i>	8,129,431 8,669,290 8,754,131 8,871,813 8,927,606	Stipulated Consent Judgment and Injunction entered on May 18, 2015.
<i>Senju Pharm. Co. Ltd., Bausch & Lomb Inc. and Bausch & Lomb Pharma Holdings Corp. v. Paddock Labs., LLC, L. Perrigo Co., and Perrigo Co., 15-cv-00337 (D.N.J.)</i>	8,129,431 8,669,290 8,754,131 8,871,813 8,927,606	Stipulated Consent Judgment and Injunction entered on June 5, 2015.
<i>Senju Pharm. Co. Ltd., Bausch & Lomb Inc. and Bausch & Lomb Pharma Holdings Corp. v. Paddock Laboratories, LLC, L. Perrigo Co., and Perrigo Co., 15-cv-00087 (D. Del.)</i>	8,129,431 8,669,290 8,754,131 8,871,813 8,927,606	Dismissed without prejudice on June 8, 2015.

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