

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)

A consolidated telephonic conference call was held on April 15, 2015, in these proceedings and two related cases filed by a different petitioner (InnoPharma Licensing). *See* IPR2015-00902 and IPR2015-00903 (filed March 26, 2015). The participants on the call were Judges Prats, Franklin, and Obermann, as well as counsel for Petitioner in the instant proceedings (Metrics), counsel for InnoPharma Licensing, and counsel for Patent Owner in all four proceedings (Senju).

The purpose of the call was to discuss the respective positions of InnoPharma Licensing, Metrics, and Senju, regarding InnoPharma Licensing's Motions for Joinder in the related cases. *See* IPR2015-00902, Paper 3 and IPR2015-00903, Paper 3; *see also* Appendix (copy of email transmission from Board to the parties).

Counsel for Senju supplied a court reporter for the call and agreed to file a true copy of the transcript of the call, as an exhibit in all four proceedings. That exhibit shall serve as the record of the content of the call.

Proposed Joint Scheduling Order

Concurrently herewith, by Orders entered in IPR2015-00902 and IPR2015-00903, InnoPharma Licensing is directed to file in those related cases, by May 19, 2015, a Proposed Scheduling Order to govern the schedule in the event that we institute an *inter partes* review in IPR2015-00902 and IPR2015-00903, and grant InnoPharma Licensing's Motions for Joinder in those related cases.

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

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

Patent Owner's Preliminary Response in Related Cases

Concurrently herewith, by Orders entered in IPR2015-00902 and IPR2015-00903, Senju's due date for filing its Patent Owner's Preliminary Responses in the related cases is changed from June 26, 2015, the date currently set, to May 26, 2015. The Board authorizes Senju to include in the Patent Owner's Preliminary Responses its position regarding InnoPharma Licensing's Proposed Scheduling Order. 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). InnoPharma Licensing's time for filing a Reply to the Oppositions is governed by the rule relating to default filing times. *See id.* at § 42.25(a)(2).

*Metric's Opposition to InnoPharma Licensing's
Motions for Joinder and Proposed Scheduling Order*

In the instant proceedings, we hereby authorize Metrics to file, by May 26, 2015, an Opposition to InnoPharma Licensing's Motions for Joinder and Proposed Scheduling Order. *See* 37 C.F.R. § 42.5(a). That paper shall not exceed five (5) pages in length. No Reply to that Opposition is authorized at this time.

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

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

It is

ORDERED that Metrics is authorized to file, by May 26, 2015, an Opposition to InnoPharma Licensing's Motion for Joinder and Proposed Scheduling Order; and

FURTHER ORDERED that the Opposition so authorized shall not exceed five (5) pages in length.

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

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

PETITIONER:

Patrick D. McPherson

Vincent L. Capuano

Duane Morris LLP

pdmcperson@duanemorris.com

VCapuano@duanemorris.com

PATENT OWNER:

Bryan Diner

M. Andrew Holtman

Justin Hasford

Jonathan R. Stroud

Finnegan, Henderson, Farabow,

Garrett & Dunner, LLP

bryan.diner@finnegan.com

andy.holtman@finnegan.com

justin.hasford@finnegan.com

jonathan.stroud@finnegan.com

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.