Paper No. __
Filed: April 29, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMNEAL PHARMACEUTICALS LLC and PAR PHARMACEUTICAL, INC.

Petitioners,

v.

JAZZ PHARMACEUTICALS, INC.

Patent Owner

Case IPR2015-00547

Patent 7,765,107

PATENT OWNER PRELIMINARY RESPONSE
PURSUANT TO 35 U.S.C. § 313 and 37 C.F.R. § 42.107

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I. INTRODUCTION

Pursuant to 35 U.S.C. § 313 and 37 C.F.R. § 42.107(a), Patent Owner Jazz Pharmaceuticals, Inc. ("Jazz") submits this Preliminary Response to Amneal Pharmaceuticals, LLC's ("Amneal") and Par Pharmaceutical, Inc.'s ("Par Inc.") (together, "Petitioners") Petition for *Inter Partes* Review (the "Petition") of U.S. Patent No. 7,765,107 (the "'107 patent").

Petitioners' request for *inter partes* review ("IPR") is both procedurally defective and substantively meritless. Petitioners previously requested covered business method ("CBM") review of the '107 patent and other patents in the same family. Those CBM requests were denied and Petitioners filed the present petition to take a second bite at the post-grant review apple. But Ground 1 is based on the same art and arguments as the CBM requests, and Petitioners cannot deny that they were fully aware of all art asserted in Ground 2 at the time they filed the CBM petitions. The Board should exercise its discretion under 35 U.S.C. §§ 314(a) and 325(d) and deny the Petition for this reason alone.

The Petition should also be denied because the Petitioners have failed to name all real parties in interest ("RPI")—a threshold requirement for IPR. Specifically omitted from the RPI identification are Par Inc.'s parent companies. Each parent company exercises control over Par Inc.'s business operations in general and could have (and do in fact) exercise control over this proceeding.

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