

**From:** Matt Ruedy [MRuedy@meiplaw.com]  
**Sent:** Tuesday, August 18, 2015 10:20 PM  
**To:** Frese, Bradford C.; Frank Calvosa; Burgy, Aziz; Steve Maddox  
**Cc:** Nick Cerrito; Evangeline Shih; John V. Biernacki; Lyndsey Przybylski  
**Subject:** RE: IPR2015-00545, -546, -547, -548, -551, and -554

Frank:

The response below is also applicable to IPRs -545, -546, and -547.

Regards,

Matt

----- Original message -----

**From:** "Frese, Bradford C." <Bradford.Frese@arentfox.com>  
**Date:** 08/18/2015 4:46 PM (GMT-05:00)  
**To:** Frank Calvosa <FrankCalvosa@quinnemanuel.com>, Matt Ruedy <MRuedy@meiplaw.com>, "Burgy, Aziz" <Aziz.Burgy@arentfox.com>, Steve Maddox <smaddox@meiplaw.com>  
**Cc:** Nick Cerrito <NickCerrito@quinnemanuel.com>, Evangeline Shih <EvangelineShih@quinnemanuel.com>, "John V. Biernacki" <jvbiernacki@jonesday.com>, Lyndsey Przybylski <lyndseyprzybylski@quinnemanuel.com>  
**Subject:** RE: IPR2015-00545, -546, -547, -548, -551, and -554

Frank:

Mr. Gilman, in his declaration, stated that Par Inc. was “also the sole Par entity responsible for directing, controlling, **and funding** the preparation and filing of the instant petitions. **Par Inc. was the only Par entity that paid any filing or legal fees associated with the preparation of the instant Petitions.**” He also declared that “None of the Par Parents participated in the decision to file the instant Petitions, nor did they co-author the instant Petitions, nor exercise any control over the filing or content of the instant Petitions, nor provide funding or other compensation for the preparation and filing of the instant Petitions.” Jazz had more than ample opportunity to ask him about his basis for these statements during his deposition, but did not.

Likewise, Mr. Gilman attested in his declaration that “The individuals primarily responsible for the decision to file and the content of the instant Petitions, David Silverstein and Lawrence Brown, **are employed on behalf of Par Inc. David Silverstein and Lawrence Brown are not employed by any of the Par Parents.**” Jazz had more than ample opportunity to ask him about this statement during his deposition as well, and in fact did so.

In other words, Jazz has relevant, sworn testimony on *which Par entity paid for the IPRs* as well as who employs both David Silverstein and Lawrence Brown. Jazz simply cannot seek discovery on the mere possibility that it might find something inconsistent with Mr. Gilman’s declaration or testimony without a basis for showing that his statements were somehow false or mistaken.

We will not produce the billing records or employment agreements. We will be available for a teleconference with the Board at the Board's convenience.

Best regards,  
Bradford

**Bradford C. Frese**  
Associate

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**From:** Frank Calvosa [mailto:FrankCalvosa@quinnemanuel.com]  
**Sent:** Friday, August 14, 2015 5:01 PM  
**To:** Matt Ruedy; Frese, Bradford C.; Burgy, Aziz; Steve Maddox  
**Cc:** Nick Cerrito; Evangeline Shih; John V. Biernacki; Lyndsey Przybylski  
**Subject:** RE: IPR2015-00545, -546, -547, -548, -551, and -554

Brad and Matt,

Thank you for your emails. We look forward to your response regarding Mr. Butler. With respect to your response regarding the billing records and employment records, we disagree that Petitioners can withhold this narrow set of useful documents.

As an initial matter, legal billing records are privileged only to the extent that they reflect detailed accounts of the legal services rendered. The useful information Jazz seeks is to which Par entity the legal bills were directed. That information is not privileged. Jazz does not object to Petitioners redacting the description of the legal services from the billing records. We trust this resolves any alleged attorney-client privilege/work product objection.

Further, Jazz can and will show it meets the *Garmin* factors if Petitioners refuse to produce the requested documents and force Jazz to seek relief from the Board. In an attempt to avoid the Board's intervention, however, Jazz responds as follows:

1. There is more than a mere possibility and allegation that something useful will be uncovered from the requested documents. Petitioners' refusal to produce the documents, Mr. Silverstein's identification of Par Pharmaceutical Companies, Inc. as his employer on LinkedIn, and Mr. Brown's identification of Par Pharmaceutical Companies, Inc. in his email signature block evidences that Jazz is in possession of information showing beyond speculation that something useful will be uncovered in the requested billing records and employment records.
2. Jazz is not seeking any litigation positions or the underlying basis for those positions.
3. Jazz cannot generate equivalent information by other means. Petitioners (in particular, Par Pharmaceutical Inc.) and the Par entities are the only ones in possession of and who have access to the requested documents.
4. Jazz's discovery requests are easily understandable. They seek production of a narrow set of specifically identified documents.
5. Jazz's discovery requests are not overly burdensome. They seek production of a narrow set of specifically identified documents.

Finally, Mr. Gilman's deposition is irrelevant to Jazz's discovery requests. As you know, Mr. Gilman did not attest to any billing records and employment records, and his deposition testimony reflects this is so. In any event, Mr. Gilman's deposition was conducted on an expedited schedule set by the Board, which did not permit Jazz adequate time to move for additional discovery. With the useful information Jazz seeks, it can address the Board's initial, non-binding determination regarding whether Petitioners failed to name all real parties-in-interest.

Based on the foregoing, please let us know by Tuesday whether Petitioners agree to produce the requested discovery. If not, please provide your availability for a teleconference with the Board.

Regards,

**Frank Calvosa**  
Associate

**Quinn Emanuel Urquhart & Sullivan, LLP**

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**From:** Matt Ruedy [<mailto:MRuedy@meiplaw.com>]  
**Sent:** Wednesday, August 12, 2015 5:24 AM  
**To:** Frese, Bradford C.; Frank Calvosa; Burgy, Aziz; Steve Maddox  
**Cc:** Nick Cerrito; Evangeline Shih; John V. Biernacki; Lyndsey Przybylski  
**Subject:** RE: IPR2015-00545, -546, -547, -548, -551, and -554

Frank:

The response below is also applicable to IPRs -545, -546, and -547.

Regards,

Matt

----- Original message -----

From: "Frese, Bradford C." <[Bradford.Frese@arentfox.com](mailto:Bradford.Frese@arentfox.com)>  
Date: 08/11/2015 11:41 PM (GMT-05:00)  
To: 'Frank Calvosa' <[FrankCalvosa@quinnemanuel.com](mailto:FrankCalvosa@quinnemanuel.com)>, "Burgy, Aziz" <[Aziz.Burgy@arentfox.com](mailto:Aziz.Burgy@arentfox.com)>, Matt Ruedy <[MRuedy@meiplaw.com](mailto:MRuedy@meiplaw.com)>, Steve Maddox <[smaddox@meiplaw.com](mailto:smaddox@meiplaw.com)>  
Cc: Nick Cerrito <[NickCerrito@quinnemanuel.com](mailto:NickCerrito@quinnemanuel.com)>, Evangeline Shih <[EvangelineShih@quinnemanuel.com](mailto:EvangelineShih@quinnemanuel.com)>, "John V. Biernacki" <[jvbiernacki@jonesday.com](mailto:jvbiernacki@jonesday.com)>, Lyndsey Przybylski <[lyndseyprzybylski@quinnemanuel.com](mailto:lyndseyprzybylski@quinnemanuel.com)>  
Subject: RE: IPR2015-00545, -546, -547, -548, -551, and -554

Frank:

Thank you for your e-mail. With regard to Mr. Butler's deposition, we are in the process of contacting him and will get back to you soon.

With regard to items (2) and (3), Par will not produce the requested billing records or employment records. The billing records sought contain privileged information and attorney work product, and are thus immune from discovery. Further, in order for the Board to authorize additional discovery, the Board has previously held that a party requesting discovery to show the following five factors are met:

- 1) There must be "more than a possibility and mere allegation" that the discovery sought will generate something useful; the party requesting discovery should also be in possession of evidence tending to show beyond speculation that in fact something useful will be uncovered.
- 2) The discovery cannot seek "litigation positions and [their] underlying basis," as these are provided in the course of briefing and procedures set forth by the Board;
- 3) The discovery cannot seek information when the requesting party has "ability to generate equivalent information by other means;"
- 4) The requested discovery must have "easily understandable instructions;" and
- 5) The requested discovery must not be "overly burdensome to answer."

Jazz has not shown that the requested discovery meets any of these factors. Moreover, Jazz already had an opportunity to review the declaration of Barry Gilman and depose him on the matters raised in there, including the employment of David Silverstein and Larry Brown, and which Par entity paid for these IPR Petitions. The Board reviewed that testimony and concluded that Jazz had failed to show the other Par entities were real-parties-in-interest.

For at least the aforementioned reasons, Par will not produce the documents requested.

Best regards,  
Bradford

**Bradford C. Frese**  
Associate

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**From:** Frank Calvosa [<mailto:FrankCalvosa@quinnemanuel.com>]  
**Sent:** Thursday, August 06, 2015 4:08 PM  
**To:** Burgy, Aziz; Frese, Bradford C.; 'mruedy@meiplaw.com'; 'smaddox@meiplaw.com'  
**Cc:** Nick Cerrito; Evangeline Shih; John V. Biernacki; Lyndsey Przybylski  
**Subject:** IPR2015-00545, -546, -547, -548, -551, and -554

Counsel,

Jazz intends to seek discovery regarding: (1) Petitioners' Wayback Machine declarant, Christopher Butler; (2) any billing records submitted from Arent Fox LLP, Sterne Kessler, Goldstein & Fox P.L.L.C., Maddox Edwards PLLC, or Robert J.

Valuck, Ph.D. to Par Pharmaceutical, Inc., Par Pharmaceutical Companies, Inc., Sky Growth Intermediate Holdings I, Inc., Sky Growth Intermediate Holdings II, Inc., and/or Par Pharmaceutical Holdings, Inc. (collectively, the "Par entities"), to the extent they relate to IPR2015-00545, -546, -547, -548, -551, and/or -554; and (3) any employment agreements between David Silverstein and the Par entities and Lawrence Brown and the Par entities.

To that end, please let us know by close of business on August 11, whether you represent Mr. Butler and agree to produce him for deposition and whether you agree to produce the documents set forth above.

Regards,

**Frank Calvosa**

*Associate*

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