

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INNOPHARMA LICENSING, INC., INNOPHARMA LICENSING LLC,
INNOPHARMA INC., INNOPHARMA LLC,
MYLAN PHARMACEUTICALS INC., and MYLAN INC.,
LUPIN LTD., and LUPIN PHARMACEUTICALS INC.,
Petitioner

v.

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

Patent Owner

Case IPR2015-00903 (Patent 8,129,431 B2)*

JOINT REQUEST FOR ORAL HEARING

*. IPR2015-01871 has been joined with this proceeding.

The Board tentatively scheduled oral hearing for IPR2015-00902 and IPR2015-00903, which involve some common parties and related patents, namely U.S. Patent No. 8,669,290 and U.S. Patent No. 8,129,431, for April 19, 2016. Paper 19, Scheduling Order, at 7. Pursuant to 37 C.F.R. § 42.70(a) and as directed by the Board's email of March 21, 2016, attached hereto as Attachment A, Petitioner and Patent Owner ("the Parties") request a consolidated oral hearing, two hours total, on the instituted grounds of unpatentability in each of the proceedings, including:

- whether claims 1-30 of the '290 patent are obvious over Ogawa and Sallmann;
- whether claims 1-5, 7-14 and 18-19 of the '431 are obvious over Ogawa and Sallmann; and
- whether claims 6, 15-17 and 20-22 of the '431 patent are obvious over Ogawa, Sallmann, and Fu.

Patent Owner also requests oral hearing on any motions to exclude filed by either party. Petitioner, however, does not believe oral hearing on any motions to exclude is necessary, but will be prepared to address any issues should the Board so desire.

The Parties request sixty minutes per side to address these issues. The Parties have agreed to the following sequential allocation of time periods during

the argument: 45 minutes (Petitioner), sixty minutes (Patent Owner), and 15 minutes (Petitioner). In the event the Board allocates more or less than sixty minutes per side, the Parties have agreed to scale these time periods accordingly.

Petitioner requests that ten spaces be reserved at the oral hearing to accommodate their counsel (InnoPharma Petitioner and Lupin Petitioner), and corporate representatives. Patent Owner requests that ten spaces be reserved at the oral hearing to accommodate their counsel and corporate representatives. This paper is being filed by counsel for Patent Owner with the approval of Petitioners.

Respectfully submitted,

Dated: March 28, 2016

By: /Bryan C. Diner/
Bryan C. Diner, Lead Counsel
Registration No. 32,409

Attorney for Patent Owner

ATTACHMENT A

From: [Vignone, Maria](#) on behalf of [Trials](#)
To: [Malik, Jitty](#); [Trials](#)
Cc: [Diner, Bryan](#); [Hasford, Justin](#); [EXT- bryan.skelton@alston.com](mailto:EXT-bryan.skelton@alston.com); [Abe, James](#); [Janusz, Joe](#); dyellin@crowell.com; jlindsay@crowell.com; slentz@crowell.com; [Ferrill, Elizabeth](#); [Fujiwara, Chiaki](#); [Lebeis, Jessica](#); EXT-deepro.mukerjee@alston.com; [Goldberg, Joshua](#); [Rapalino, Emily L.](#) (ERapalino@goodwinprocter.com)
Subject: RE: IPR2015-00902 and -00903 (Request for Sur-Reply)
Date: Monday, March 21, 2016 3:52:08 PM

Counsel: The Board will determine whether, under 37 C.F.R. § 42.23(b), Petitioner's Reply briefs, and related evidence, are outside the scope of a proper reply and evidence, when the panel reviews the record and prepares any final written decision in connection with these proceedings. If there are improper arguments or evidence, or both, presented with the Reply briefs, the panel may exclude such argument and related evidence. Patent Owner's request to file a sur-reply in each proceeding to address allegedly new arguments presented in the Reply briefs is *denied*.

Further, to the extent that either party wishes to request an oral hearing (currently set, if requested, for April 19, 2016 (Due Date 7)), **such request must be filed within five (5) business days of this email.**

Thank you,

Maria Vignone
Paralegal Operations Manager
Patent Trial and Appeal Board
703-756-1288

From: Malik, Jitty [<mailto:Jitty.Malik@alston.com>]
Sent: Monday, March 21, 2016 11:20 AM
To: Trials <Trials@USPTO.GOV>
Cc: Diner, Bryan <bryan.diner@finnegan.com>; Hasford, Justin <Justin.Hasford@finnegan.com>; Skelton, Bryan <Bryan.Skelton@alston.com>; Abe, James <James.Abe@alston.com>; Janusz, Joe <Joe.Janusz@alston.com>; dyellin@crowell.com; jlindsay@crowell.com; slentz@crowell.com; [Ferrill, Elizabeth](#) <Elizabeth.Ferrill@finnegan.com>; [Fujiwara, Chiaki](#) <Chiaki.Fujiwara@finnegan.com>; [Lebeis, Jessica](#) <Jessica.Lebeis@finnegan.com>; [Mukerjee, Deepro](#) <Deepro.Mukerjee@alston.com>; [Goldberg, Joshua](#) <Joshua.Goldberg@finnegan.com>; [Rapalino, Emily L.](#) (ERapalino@goodwinprocter.com) <ERapalino@goodwinprocter.com>
Subject: RE: IPR2015-00902 and -00903 (Request for Sur-Reply)

Dear PTAB,

Petitioner does not agree with Patent Owner's characterizations that the arguments were outside the scope of Patent's Owner's Response. Rather Petitioner's expert, Dr. Laskar (who was Petitioner's original declarant when Petitioner filed its petition) was responding directly to certain arguments made by Patent Owner in its Response and by its experts. That being said, Petitioner InnoPharma (along with joined Petitioner Lupin) are available for a conference call to discuss this

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