

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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COALITION FOR AFFORDABLE DRUGS VI LLC

PETITIONER

V.

CELEGENE CORPORATION

PATENT OWNER

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Case IPR2015-01102

Patent 6,315,720

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**PETITIONER'S MOTION TO SUBMIT SUPPLEMENTAL  
INFORMATION PURSUANT TO 37 C.F.R. § 42.123(a)**

Pursuant to 37 C.F.R. § 42.123(a), Petitioner Coalition For Affordable

Drugs VI LLC (“CFAD”) hereby moves to submit supplemental information in accordance with the Order dated December 9, 2015 (Paper 33) in Case IPR2015-01102. The Patent Owner indicated that it opposes this motion.

**I. The Present Motion Complies with the Rules**

1. The present motion complies with the requirements of 37 CFR § 42.123(a), as set forth below:

2. **37 CFR § 42.123(a)(1):** The Board instituted the *inter partes* review of U.S. Patent 6,315,720 in a Decision dated October 27, 2015. (Paper 21.) Petitioner’s request for authorization was timely made within one month of institution. (*See* e-mail communication to the Board and Patent Owner on November 27, 2015.)

3. **37 CFR § 42.123(a)(2):** In this proceeding, trial has been instituted for Claims 1–32 based on, in part, *Menill* (Ex. 1026). Specifically, Petitioner relies on *Menill* to explain the knowledge of one of ordinary skill in the art at the time of the invention. (Paper 1 at 44.) The Board included this *Menill* reference in the ground on which it instituted the trial. (Paper 21 at 7.) As such, the supplemental information for *Menill* sought to be submitted is relevant to a claim for which the trial has been instituted.

## II. The Supplemental Information

4. As mentioned above, the present IPR refers to and relies on *Menill* for invalidating at least one claim.

5. The Board or Patent Owner did not challenge the public accessibility/availability of *Menill*. However, out of an abundance of caution, Petitioner seeks to file the following supplemental information for the *Menill* reference to demonstrate its public accessibility/availability:

- a. Ex. 1078 (WorldCat results for *Menill* (Ex. 1026)): *Menill* was listed in WorldCat with a cataloging date of 16 November 1994. Eleven libraries held the *Menill* reference.
- b. Ex. 1079 (Scopus citations for *Menill* (Ex. 1026)): Scopus, an Elsevier database, lists 20 articles citing *Menill* from 1997 to the present.
- c. Ex. 1080 (Google Scholar citations for *Menill* (Ex. 1026)): Google Scholar lists 9 articles citing *Menill* dating from 1994 to the present.
- d. Ex. 1081 (Wayback machine archive.org results for *Menill* (Ex. 1026)): The home page for CASA only goes back to 1996, and *Menill* was available online from August, 27, 1999.

## III. Conclusion

The supplemental information Petitioner seeks to submit does not change the grounds of unpatentability on which the *inter partes* review has been instituted, nor

does it change the evidence initially presented in the Petition to support such grounds of unpatentability. Instead, the supplemental information merely constitutes additional information that confirms public accessibility/availability of *Menill* (Ex. 1026), and this supplemental information was neither withheld intentionally nor would it limit or frustrate the Board's ability to complete this proceeding in a timely manner.

For the foregoing reasons, Petitioner requests the Board to accept this motion.

Respectfully submitted,

January 25, 2016

/Sarah E. Spires/

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 25, 2016, a copy of this Motion, including all exhibits, was served via email upon the following:

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