

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COALITION FOR AFFORDABLE DRUGS V LLC.,
Petitioner,

v.

BIOGEN MA INC.,
Patent Owner.

Case IPR2015-01993
Patent 8,399,514 B2

Before FRED E. McKELVEY, *Administrative Patent Judge*.

ORDER
Conduct of Proceedings
37 C.F.R. § 42.5(a)

An email dated 2 February 2016 (1:00 p.m.) from Biogen (Patent Owner) has been received by the Board.

In relevant part the email reads:

Patent Owner Biogen MA Inc. requests a conference call in IPR2015-01993 to seek authorization to submit a sur-reply to Petitioner's reply [Paper 17] to the preliminary response [Paper 11] filed on January 28, 2016.

Counsel for Petitioner has indicated that Petitioner will oppose this request.

Patent Owner is generally available for a conference call anytime Wednesday-Friday of this week. Petitioner is available anytime this week except for Wednesday from 11:30-12:30 or 2:30-3:30.

On 2 February 2016 (2:24 p.m.), the Board emailed counsel informing them that:

Counsel: No sur-reply is authorized. No conference call is needed.

Authorization of whether to authorize a sur-reply is discretionary with the Board. If a sur-reply is authorized, then a further paper from Petitioner would need to be considered because generally a party with the burden of proof (Petitioner in this instance) is entitled to the final word.

The Petition, Preliminary Response, and Reply are sufficient to enable the Board to make an informed decision on whether to institute an *inter partes* review in this case.

Moreover, to the extent that Patent Owner believes Petitioner may have raised a “new issue” in its Reply, all are advised that the Board can determine *sua sponte* whether an inappropriate new issue has been raised.

Lastly, in the event an *inter partes* review is instituted (a matter on which no views are expressed at this time), Patent Owner will have a full opportunity to address appropriate issues in its merits opposition.

Upon consideration of the email requesting a conference call to obtain leave to file a sur-reply, and for the reasons given, it is

ORDERED that the request for a conference call is *denied*.

FURTHER ORDERED that the request for leave to file a sur-reply is *denied*.

IPR2015-01993
Patent 8,399,514 B2

cc:

PETITIONER:

Robert W. Hahl
Robert Mihail
John K. Pike
NEIFELD IP LAW
rhahl@neifeld.com
rmihail@neifeld.com
jkpike@neifeld.com
general@neifeld.com

PATENT OWNER:

Michael Flibbert
Maureen D. Queler
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
michael.flibbert@finnegan.com
maureen.queler@finnegan.com