

IN THE 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.
Petitioner,

v.

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

U.S. Patent No. 8,927,606 to Sawa *et al.*

Issue Date: January 6, 2015

Title: Aqueous Liquid Preparation Containing 2-Amino-3-(4-
bromobenzoyl) Phenylacetic Acid

Inter Partes Review No.: IPR2016-00091

MOTION FOR JOINDER PURSUANT TO
35 U.S.C. § 315(c), 37 C.F.R. §§ 42.22 AND 42.122(b)

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I. STATEMENT OF THE PRECISE RELIEF REQUESTED

InnoPharma Licensing Inc., InnoPharma Licensing LLC, InnoPharma Inc., InnoPharma LLC, Mylan Pharmaceuticals Inc., and Mylan Inc. (collectively “InnoPharma”) respectfully submits this Motion for Joinder, together with a Petition for *Inter Partes* Review of U.S. Patent No. 8,927,606 (“the ’606 Patent”) (“Petition”). Pursuant to 35 U.S.C. § 315(c), 37 C.F.R. §§ 42.22 and 42.122(b), InnoPharma requests institution of an *inter partes* review and joinder with the *inter partes* review concerning the same patent in *Lupin Ltd. et al. v. Senju Pharmaceutical Co., Ltd.*, Case No. IPR2015-01100 (the “Lupin IPR”), which was instituted on October 27, 2015.

In accordance with the Board’s Representative Order identifying matters to be addressed in a motion for joinder (*Kyocera Corp. v. SoftView LLC*, Paper No. 15, IPR2013-00004, April 24, 2013), InnoPharma submits that: (1) joinder is appropriate because it will promote efficient determination of the validity of the ’606 Patent without prejudice to Lupin Ltd. and Lupin Pharmaceuticals Inc. (collectively, “Lupin”) or Senju Pharmaceutical Co., Ltd., Bausch & Lomb, Inc., and Bausch & Lomb Pharma Holdings Corp. (collectively “Senju”); (2) InnoPharma’s Petition includes grounds that are essentially the same as the ground instituted in the Lupin IPR; (3) joinder would not affect the pending schedule in

the Lupin IPR nor increase the complexity of that proceeding, minimizing costs; and (4) InnoPharma is willing to agree to consolidated filings with Lupin to minimize burden and schedule impact.

This Motion for Joinder is timely under 37 C.F.R. §§ 42.22 and 42.122(b), as it is submitted within one month of the date on which the Lupin IPR was instituted.

II. STATEMENT OF MATERIAL FACTS

1. Senju Pharmaceutical, Co., Ltd., is the owner of the '606 Patent.
2. On May 8, 2015, Senju Pharmaceutical, Co., Ltd., et al. filed a complaint against InnoPharma for infringement of the '606 Patent (the "Underlying Litigation").
3. On April 23, 2015, Lupin filed its petition for *inter partes* review of claims 1-30 of the '606 Patent.
4. On October 27, 2015, a decision instituting *inter partes* review of claims 1-30 of the '606 Patent was entered in the Lupin IPR (Paper No.9, IPR 2015-01100) on the grounds that claims 1-30 were unpatentable over U.S. Patent No. 5,891,913 ("the '913 patent" or "Sallmann 913") in view of U.S. Patent No. 4,910,225 ("Ogawa" or "the '225 patent") under 35 U.S.C. § 103.
5. Oral argument is currently set for June 6, 2016 in the Lupin IPR.

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