

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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FRESENIUS KABI, USA, LLC,  
Petitioner

v.

CEPHALON, INC.,  
Patent Owner

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Case IPR2016-00098 (Patent No. 8,791,270 B2)  
Case IPR2016-00111 (Patent 8,895,756 B2)<sup>1</sup>

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**JOINT MOTION TO TERMINATE  
PROCEEDINGS PURSUANT TO 35 U.S.C. § 317**

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<sup>1</sup> The word-for-word identical paper is filed in each proceeding identified in the caption.

Pursuant to 35 U.S.C. § 317(a), Petitioner Fresenius and Patent Owner Cephalon, Inc. (“Patent Owner”) (together, “the Parties”) jointly request termination of these *inter partes* reviews (IPRs) of U.S. Patent 8,791,270, Case No. IPR2016-00098 and U.S. Patent 8,895,756, IPR2016-00111. In accordance with 37 C.F.R. § 42.20(b), the parties sought, and received, authorization from the Board to file this motion on July 25, 2016.

The parties have settled their disputes. The Parties’ settlement is memorialized in a Settlement Agreement filed concurrently herewith as Ex. 2032 in IPR2016-00098 and Ex. 2018 in IPR2016-00098. A joint motion to file the agreement as business confidential information is being filed concurrently herewith. Termination of these proceedings is proper because the IPRs are in their early stages. Though the IPRs have been instituted, Patent Owner has not yet filed its Patent Owner Responses, and the Board has not yet “decided the merits of the proceeding[s].” 35 U.S.C. § 317(a); 77 Fed. Reg. 48768 (“The Board expects that a proceeding will terminate after the filing of a settlement agreement, unless the Board has already yielded the merits of the proceeding.”). The district court litigation in which Patent Owner has asserted the subject patents against real-parties-in-interest Hetero Labs, Ltd. and Hetero USA, Inc. has also been settled, pending regulatory review. The parties are unaware of any other matter before the

USPTO that would be affected by the settlement of this proceeding and there are no other proceedings before the Board involving U.S. Patent Nos. 8,791,270 and 8,895,756.

For all these reasons, the Parties respectfully request that the Board terminate these IPRs.

Dated: July 26, 2016

Respectfully submitted,

WILEY REIN LLP

KAYE SCHOLER LLP

By     /Lawrence Sung #38,330      
Lawrence Sung, Reg. 38,330  
1776 K Street NW  
Washington, DC 20006

By     /Soumitra Deka #70,252      
Soumitra (Sam) Deka  
Two Palo Alto Sq.  
3000 El Camino Real  
Palo Alto, CA 94306

**CERTIFICATION OF SERVICE**

The undersigned hereby certifies that the foregoing JOINT MOTION TO TERMINATE PURSUANT TO 35 U.S.C. § 317 was served electronically via e-mail on this 26th day of July, 2016, and directed to:

Counsel for Petitioner

Lawrence Sung  
Neal Seth  
WILEY REIN LLP  
nseth@wileyrein.com  
lsung@wileyrein.com

WILEY REIN LLP  
ATTN: Patent Administration  
1776 K Street NW  
Washington, DC 20006

Dated: July 26, 2016

KAYE SCHOLER LLP

By /Soumitra Deka #70,252  
Soumitra (Sam) Deka  
Two Palo Alto Sq.  
3000 El Camino Real  
Palo Alto, CA 94306