

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

J. Kyle Bass and Erich Spangenberg
Petitioners

v.

ALPEX PHARMA
Patent Owner

Patent No. 8,440,170
Issued: May 14, 2013
Filed: PCT January 30, 2009
Inventors: F. Stroppolo and S. Ardalan
Title: "Orally Disintegrating Tablets with Speckled Appearance"

Inter Partes Review: No. IPR2016-00245

**RESPONSE TO ORDER CONCERNING CONDUCT OF THE
PROCEEDING**

business days ... to show cause why adverse judgment should not be entered against it” (“the Order”).

Patent Owner confirms that it is not inclined, in the aftermath of refrainment from filing a response to the Petition, to contest the issues designated for trial any further.

In addition, Patent Owner acknowledges that pursuant to 37 C.F.R. §42.73(b)(4) “abandonment of this proceeding by Patent Owner would be viewed as a request for adverse judgment”, and that “judgment would be entered against Patent Owner.”

Patent Owner’s election not to “show cause why adverse judgment should not be entered against it” is premised on, and subject to the correctness of its understanding that, the adverse judgment entered against it will: (i) relate solely to the issues designated for trial, (ii) result in the cancellation of only ‘170 patent claims 1-3, 5, 6, 8 and 9, and (iii) leave intact ‘170 patent claims 4 and 7 which were not designated for trial. In the event any of the foregoing is not correct, Patent Owner requests that it be so notified prior to entry of an adverse judgment.

By: /Silvia Salvadori/
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/George B. Snyder/
George B. Snyder
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- Response to Order Concerning Conduct of the Proceeding,

is being served on Petitioners' counsel by Express Mail to Petitioners' counsel of record at:

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Dated: October 4, 2016

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