

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TEVA PHARMACEUTICALS USA, INC.,
Petitioner,

v.

MONOSOL RX, LLC,

Patent Owner.

Case IPR2016-00281 (Patent 8,603,514 B2)
Case IPR2016-00282 (Patent 8,017,150 B2)¹

Before ERICA A. FRANKLIN, TINA E. HULSE, and CHRISTOPHER G.
PAULRAJ, *Administrative Patent Judges*.

FRANKLIN, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

¹ This Order relates to and shall be filed in each referenced case. The parties are authorized to use this style heading when filing the same paper in multiple proceedings by including a footnote attesting that “the word-for-word identical paper is filed in each proceeding identified in the heading.”

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On February 17, 2016, a conference call was conducted between respective counsel for the parties and the panel judges. A court reporter was also present on the call.² The parties requested the conference to address issues relating to the filing dates accorded to petitions filed in Case Nos. IPR2016-00281 and IPR2016-00282.³ In particular, Petitioner, represented by Ms. Elizabeth Holland and Ms. Eleanor M. Yost, requests that the December 4, 2015 filing date accorded to each petition be changed to December 3, 2015. According to Petitioner, a number of “technical difficulties” were encountered when uploading the petitions and applying payment on the night of December 3, 2015, which resulted in the filings to be completed after midnight.

Patent Owner, represented by Mr. Daniel A. Scola, Jr. and Mr. Michael I. Chakansky, opposes Petitioner’s request to change the filing dates accorded to December 3, 2015, and further asserts that the Amended Certificate of Service fails to reflect that the petitions were actually served on December 4, 2015, and received thereafter. Further, Patent Owner assert that, in each case, such late service did not include the declaration relied upon by Petitioner, and in the one case, IPR2015-00282, service did not include the petition.

Having heard arguments by both parties regarding each of those issues, we authorize the following briefing: Petitioner may file a motion

² Petitioner shall file a copy of the transcript as an exhibit in due course. This Order summarizes statements made during the conference call. A more detailed record may be found in the transcript.

³ The conference call also addressed a related issue in IPR2016-00280. A separate order will be issued for that case.

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requesting the filing date accorded in each case to be changed to December 3, 2015. Petitioner's motion will be due 10 days from the entry of this Order. Patent Owner may file an opposition to the motion, including a discussion regarding the asserted issues relating to service. Patent Owner's opposition will be due 10 days after the filing of Petitioner's motion. Petitioner may file a reply to Patent Owner's opposition. Petitioner's reply will be due 5 days after the filing of Patent Owner's opposition. Not inclusive of any declarations or other supporting exhibits, Petitioner's motion and Patent Owner's opposition shall be limited to 10 pages each, and Petitioner's reply shall be limited to 5 pages. Further briefing on these issues is not authorized at this time.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner is authorized to file a motion, limited to 10 pages, requesting the filing date accorded in each case to be changed;

FURTHER ORDERED that Petitioner's motion will be due 10 days from the entry of this Order;

FURTHER ORDERED that Patent Owner is authorized to file an opposition to the motion, limited to 10 pages, including a discussion regarding any asserted issues relating to service;

FURTHER ORDERED that Patent Owner's opposition will be due 10 days after the filing of Petitioner's motion;

FURTHER ORDERED that Petitioner is authorized further to file a reply to Patent Owner's opposition, limited to 5 pages; and

FURTHER ORDERED that Petitioner's reply will be due 5 days after the filing of Patent Owner's opposition.

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