

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD**

MYLAN PHARMACEUTICALS INC., TEVA PHARMACEUTICALS USA,
INC., and AKORN INC.,¹
Petitioners,

v.

ALLERGAN, INC.,
Patent Owner.

Case IPR2016-01127 (8,685,930 B2)
Case IPR2016-01128 (8,629,111 B2)
Case IPR2016-01129 (8,642,556 B2)
Case IPR2016-01130 (8,633,162 B2)
Case IPR2016-01131 (8,648,048 B2)
Case IPR2016-01132 (9,248,191 B2)

**PATENT OWNER'S REPLY TO OPPOSITION TO
MOTION TO DISMISS FOR LACK OF JURISDICTION
BASED ON TRIBAL SOVEREIGN IMMUNITY**

¹ Cases IPR2017-00576 and IPR2017-00594, IPR2017-00578 and IPR2017- 00596,
IPR2017-00579 and IPR2017-00598, IPR2017-00583 and IPR2017- 00599,
IPR2017-00585 and IPR2017-00600, and IPR2017-00586 and IPR2017-00601 have
respectively been joined with the captioned proceedings. The word-for-word
identical paper is filed in each proceeding identified in the caption pursuant to the
Board's Scheduling Order (Paper 10).

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I. INTRODUCTION

Petitioners' Opposition is premised entirely on their unsubstantiated claim that the Saint Regis Mohawk Tribe ("Tribe") is not the Patent Owner. That premise is false. Allergan *permanently and irrevocably* assigned ownership of the Patents-at-Issue to the Tribe. Moreover, when the Tribe licensed back to Allergan certain limited field-of-use rights, the Tribe retained substantial rights to the Patents-at-Issue. Petitioners failed to cite any case law or make any coherent legal arguments that would provide the Board with any basis for finding that the agreements between the Tribe and Allergan are a "sham."

The only issue before the Board is whether the Tribe's sovereign immunity necessitates dismissal of the above-captioned IPRs. Petitioners do not contest that (1) the Tribe is a sovereign entity protected by sovereign immunity and (2) the Tribe's immunity has not been abrogated or waived. Petitioners' concessions lead to only one outcome: the IPRs must be dismissed.

II. ARGUMENTS AND AUTHORITY

A. The Tribe is the Patent Owner.

Petitioners attempt to cast doubt on the Tribe's ownership of the Patents-at-Issue by arguing that (i) Allergan, not the Tribe, is the owner because the Tribe transferred substantially all rights to Allergan or (ii) Allergan's assignment to the Tribe was a sham. But neither argument is supported by any facts or applicable legal authority.

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