

Paper No. ____
Date Filed: Aug. 24, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARGENTUM PHARMACEUTICALS LLC,
Petitioner,

v.

JANSSEN ONCOLOGY, INC.,
Patent Owner.

Case IPR2016-01317
Patent 8,822,438

**JANSSEN ONCOLOGY, INC.'S WAIVER OF PRELIMINARY RESPONSE
PURSUANT TO 37 C.F.R. §42.107(b)**

Pursuant to 37 C.F.R. §42.107(b), Patent Owner Janssen Oncology, Inc. (“Janssen”) hereby elects to waive its Patent Owner Preliminary Response to the Petition for *inter partes* review. This waiver is being filed within three months of July 12, 2016, the date of the Notice of Filing Date accorded to the Petition.

As indicated in the Trial Practice Guide, no adverse inference should be taken by this election. Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48764 (August 14, 2012). Janssen reserves all rights to submit a Patent Owner Response and/or a Motion to Amend pursuant to 37 C.F.R. §§42.120 and 42.121, respectively. This election should not be deemed a waiver or admission on the part of Janssen of any material presented in the Petition.

By filing this waiver pursuant to C.F.R. §42.107(b), Janssen does not waive the arguments that it raised in IPR2016-00286 regarding: 1) the exclusion of the expert declaration addressing “commercial success” related to U.S. Patent No. 8,882,438 submitted by Petitioner Amerigen Pharmaceuticals Limited (“Amerigen”) in IPR2016-00286; or 2) the alternative relief sought by Janssen in IPR2016-00286, namely, submitting a new declaration in support of its preliminary response to address Amerigen’s commercial success arguments. *See* IPR2016-00286, Paper 11 (PTAB Feb. 22, 2016).

IPR2016-01317
Patent 8,822,438

Date: Aug. 24, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **JANSSEN ONCOLOGY INC.'S WAIVER OF PRELIMINARY RESPONSE PURSUANT TO 37 C.F.R. §42.107(b)** was served on counsel of record on Aug. 24, 2016 by filing this document through the End-to-End System, as well as delivering a copy via electronic mail to counsel of record for the Petitioner at the following addresses:

Teresa Stanek Rea – TRea@Crowell.com
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Date: Aug. 24, 2016

/s/ Dianne B. Elderkin /
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