

Filed: January 9, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MYLAN PHARMACEUTICALS INC.

Petitioners,

v.

ASTRAZENECA AB.

Patent Owner.

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Case No. IPR2016-01316 (6,774,122)

Case No. IPR2016-01324 (7,456,160)

Case No. IPR2016-01325 (8,329,680)

Case No. IPR2016-01326 (8,466,139)<sup>1</sup>

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**JOINT MOTION TO TERMINATE PROCEEDINGS  
UNDER 35 U.S.C. § 317 (a)**

Pursuant to 35 U.S.C. § 317(a), 37 C.F.R. §§ 42.72 and 42.74, Petitioner Mylan Pharmaceuticals Inc. (“Mylan”) and Patent Owner AstraZeneca AB

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<sup>1</sup> A word-for-word identical Motion is being filed in each proceeding.

(“AstraZeneca”) jointly request termination of IPR2016-01316, IPR2016-01324, IPR2016-01325, and IPR2016-01326.<sup>2</sup>

The Board authorized this Motion by email on January 6, 2017.

Mylan and AstraZeneca have reached a settlement agreement that resolves all pending disputes between Mylan and AstraZeneca as to the subject patents, including the subject IPRs. Pursuant to 37 C.F.R. § 42.74(b), the parties’ settlement agreements are in writing, and a true and correct copy is filed concurrently with this Motion. Pursuant to 37 C.F.R. § 42.74(c), the parties request that the settlement agreements be treated as business confidential information and be kept separate from the files of an involved patent or application.

The parties believe that termination of this proceeding is proper under 35 U.S.C. § 317(a) because the Board has not yet decided the merits of the proceedings as to IPR2016-01316, IPR2016-01324 and IPR2016-01326 and, with respect to IPR2016-01325, Petitioner’s time period to seek reconsideration of the decision on institution has not yet expired. Termination of these proceedings avoids both the Board and the parties from spending unnecessary resources.

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<sup>2</sup> The Board declined to institute IPR2016-01325 on December 14, 2016. The Board has yet to issue a decision in the remaining IPRs.

### **Status of Pending Patent Office Proceedings**

The parties are unaware of any other matter pending before the Office that would be affected by the outcome of this proceeding. Specifically, the parties are unaware of any pending, related *inter partes* review proceedings.

### **Status of Pending District Court Actions**

With respect to the related district court actions:

(1) The following litigations involving Mylan defendants have been dismissed:

- *AstraZeneca Pharms. LP et al. v. Mylan Pharms. Inc. et al.*, No. 15–7009 (D.N.J.) (consolidated with 15–6039) (consent judgment entered as ECF No. 26);
- *AstraZeneca Pharms. LP et al. v. Mylan Pharms. Inc. et al.*, No. 15–183 (N.D.W. Va.) (consent judgment entered as ECF No. 38);
- *AstraZeneca Pharms. LP et al. v. Mylan Institutional LLC*, No. 16–4612 (D.N.J.) (consolidated with 15–6039) (consent judgment entered as ECF No. 21); and
- *AstraZeneca Pharms. LP et al. v. Mylan Institutional LLC*, No. 16–669 (D. Del.) (*see* ECF No. 7).

(2) The following litigations involving non-Mylan defendants have been dismissed:

- *AstraZeneca Pharms. LP et al. v. Sandoz Inc.*, No. 14–3547 (D.N.J.) (*see* ECF No. 316);
- *AstraZeneca Pharms. LP et al. v. Sagent Pharms., Inc.*, No. 14–5539 (D.N.J.) (consolidated as 14–3547) (*see* ECF No. 347);
- *AstraZeneca Pharms. LP et al. v. Glenmark Pharms. Inc., USA*, No. 15–615 (D.N.J.) (consolidated as 14–3547) (*see* ECF No. 348);
- *AstraZeneca Pharms. LP et al. v. Teva Parenteral Medicines Inc. et al.*, No. 10–018 (D. Del.) (*see* ECF No. 35);
- *AstraZeneca Pharms. LP et al. v. Sagent Pharms., Inc.*, No. 14–7358 (N.D. Ill.) (*see* ECF No. 14); and
- *AstraZeneca Pharms. LP et al. v. InnoPharma, Inc.*, No. 16–894 (D.N.J.) (*see* ECF No. 17).

(3) The following litigations involving Teva and InnoPharma defendants remain pending:

- *AstraZeneca Pharms. LP. et al. v. Agila Specialties, Inc. et al.*, No. 15–6039 (D.N.J.) (lead case);<sup>3</sup>

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<sup>3</sup> All Mylan entities (i.e., Agila Specialties, Inc., Onco Therapies Ltd., Mylan Laboratories Ltd., Mylan Inc., Mylan Pharmaceuticals Inc., and Mylan Institutional

- *AstraZeneca Pharms. LP et al. v. Teva Pharms. USA, Inc.*, No. 15–7889 (D.N.J.) (consolidated with 15–6039); and
- *AstraZeneca Pharms. LP et al. v. InnoPharma Licensing LLC*, No. 16–1962 (D.N.J.) (consolidated with 15–6039).

Accordingly, the parties respectfully request termination of this proceeding.

Dated: January 9, 2017

/Brandon M. White/

Brandon M. White  
Reg. No. 52,354  
Perkins Coie LLP  
700 13th St., NW, Suite 600  
Washington, D.C. 20005  
Telephone: (202) 654-6206  
E-mail: [bmwhite@perkinscoie.com](mailto:bmwhite@perkinscoie.com)

*Attorney for Mylan Pharmaceuticals Inc.*

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LLC) have been dismissed from this action (*see* ECF No. 197). This action remains pending as it is the lead case for the Teva and InnoPharma litigations.

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