

From: [Donovan, Bindu](#)
To: [White, Brandon \(WDC\)](#); [JANS-ZYTIGA](#); [Sidley Zytiga IPR Team](#)
Cc: [Beel, Bryan D. \(POR\)](#); [*Abiraterone](#); [Varughese, Dennies \(NON-SIDLEY@SKGF.COM\)](#); ["Christopher M. Gallo"](#); [Deborah Sterling](#); [Krause, Todd](#)
Subject: RE: IPR2016-01332
Date: Thursday, March 09, 2017 4:12:43 PM

Brandon,

Janssen does not agree that we need to provide deposition dates for Drs. de Bono, Serels, Ratain, and Dorin in IPR2016-01332. Exhibits 2118, 2120, 2122, 2124, 2125, 2127, and 2037 were not prepared for purposes of the instant *inter partes* review, but rather constitute “preexisting documentary evidence that was filed previously in another proceeding” for which cross-examination of the witnesses is not provided as routine discovery under 37 C.F.R. §42.51(b)(1)(ii). *Gea Process Engineering, Inc. v. Steuben Foods, Inc.*, IPR2014-00041, Paper 41 at 3 (PTAB June 11, 2014) (citing *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033 (Paper 85 at 2)).

Set forth below are dates for the depositions of Patent Owner’s Declarants. Mylan/Wockhardt previously advised us that the dates for Dr. Rettig and Dr. Auchus are acceptable.

Dr. Auchus: March 22 (NY)
Dr. Vellturo: March 23 (Washington D.C.)
Dr. Rettig: March 31 (NY)
Dr. Judson: April 4 (London)

Best regards, Bindu

BINDU DONOVAN
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From: White, Brandon (Perkins Coie) [<mailto:BMWhite@perkinscoie.com>]
Sent: Thursday, March 09, 2017 10:30 AM
To: JANS-ZYTIGA; Sidley Zytiga IPR Team
Cc: Beel, Bryan D. (Perkins Coie); Abiraterone@perkinscoie.com
Subject: IPR2016-01332

Bindu,

Patent Owner’s Response in the Mylan IPR trial affirmatively relies on the testimony of numerous fact and expert witnesses who have not yet been deposed in this proceeding, and for whom Janssen has not yet provided a deposition date.

First, Janssen relied on the declaration testimony of Dr. Vellturo (JSN 2044), Dr. de Bono (JSN 2118), Dr. Judson (JSN 2028) and Dr. Serels (JSN 2120, JSN 2122). Second, Janssen relied on the deposition testimony of Dr. Serels (JSN 2037, JSN 2127), Dr. Ratain (JSN 2124), and Dr. Dorin (JSN 2125). Regarding Drs. Serels, Ratain, and Dorin (i.e., the Amerigen witnesses), Mylan previously made clear its objections to Janssen relying on these witnesses, whom Mylan had no opportunity to cross-examine, and upon whom Mylan did not rely in its petition. For example, we noted that Janssen prohibited Mylan from attending the Amerigen depositions. We also note that Janssen earlier argued extensively that the Mylan IPR is so different from the Amerigen IPR that they could not possibly be joined, despite now arguing just the opposite, undermining Janssen’s position that the Amerigen evidence should be admitted here.

Now that Janssen has affirmatively relied on Amerigen’s witnesses in this proceeding, Mylan expects that Janssen will make these declarants and deponents available for cross-examination by Mylan before April 3, 2017.

Given the expedited scheduling, please provide dates for the depositions of these witness in the United States by the close of business today, or identify every declarant or witness for whom Janssen refuses to provide a deposition date.

Mylan reserves the right to object to all declarations and transcripts relied upon in the Patent Owner Response and to seek relief from the Board for failure to make declarants and witnesses available for cross examination.

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