

Filed: May 3, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC., ACTAVIS
LABORATORIES FL, INC., AMNEAL PHARMACEUTICALS LLC,
AMNEAL PHARMACEUTICALS OF NEW YORK, LLC, DR. REDDY'S
LABORATORIES, INC., DR. REDDY'S LABORATORIES, LTD.,
SUN PHARMACEUTICALS INDUSTRIES, LTD.,
SUN PHARMACEUTICALS INDUSTRIES, INC.,
TEVA PHARMACEUTICALS USA, INC., WEST-WARD
PHARMACEUTICAL CORP., and HIKMA PHARMACEUTICALS, LLC,

Petitioners,

v.

JANSSEN ONCOLOGY, INC.,

Patent Owner.

Case IPR2016-01332¹
Patent 8,822,438 B2

**PETITIONERS' MOTION TO EXCLUDE EVIDENCE
UNDER 37 C.F.R. § 42.64(c)**

¹ Case IPR2017-00853 has been joined with this proceeding.

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Pursuant to 37 C.F.R. §§ 42.61(a), 42.62, and 42.64(c), Petitioners move to exclude the following:

- (1) All testimony given in the proceedings styled *Amerigen Pharms. Ltd. v. Janssen Oncology, Inc.*, IPR2016-00286 (“*Amerigen IPR*”), and Janssen’s citations to, and reliance on, it;
- (2) Janssen’s Patent Owner Response from the *Amerigen* proceeding, filed as an additional exhibit in this proceeding, and Janssen’s citations to, and reliance on, it;
- (3) Exhibit JSN 2134 and associated declaration and deposition testimony given by Dr. Christopher Velluro, and Janssen’s citations to, and reliance on, them; and
- (4) All declaration testimony by Dr. Johann de Bono, and Janssen’s citations to, and reliance on, it.

I. FACTUAL BACKGROUND

This proceeding involves a challenge to U.S. Patent No. 8,822,438 (“438 patent”), which claims methods of treating prostate cancer using a therapeutically effective amount of abiraterone acetate and a therapeutically effective amount of prednisone. In the grounds instituted by the Board, Petitioners showed that the claimed method is obvious over prior art disclosing both abiraterone acetate and its known use to inhibit testosterone production by disrupting steroid synthesis, and

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