

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APOTEX INC. and APOTEX CORP.  
Petitioners

v.

ALCON RESEARCH, LTD  
Patent Owner

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Patent No. 8,791,154  
Issue Date: July 29, 2014  
Title: HIGH CONCENTRATION OLOPATADINE  
OPHTHALMIC COMPOSITION

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*Inter Partes* Review No. 2016-01640

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**JOINT NOTICE OF STIPULATION CONCERNING JOINDER**

Apotex Inc. and Apotex Corp. (“Apotex”) filed a motion in the above-captioned *inter partes* review seeking to join this IPR, IPR2016-01640, with IPR2016-00544, which Argentum Pharmaceuticals LLC (“Argentum” or “Lead Petitioner”) filed on February 2, 2016, and on which the Board instituted a trial on July 18, 2016. Petitioner Apotex, Petitioner Argentum, and Patent Owner Alcon Research, Ltd. (“Alcon”) have conferred, and hereby stipulate and agree as follows, subject to the Board’s approval of joinder on the parties’ agreed-upon terms:

1. Alcon and Argentum will not oppose the joinder of Apotex to IPR2016-00544 (the “Joined Proceeding”).
2. Alcon waives its right to file a Patent Owner Preliminary Response in IPR2016-01640.
3. So long as Lead Petitioner is not terminated as a party, Apotex will (1) file papers with Lead Petitioner as consolidated filings and will not file any papers separately from Lead Petitioner except for *pro hac vice* motions, updated mandatory notices, and similar administrative filings that do not constitute argument or evidence relating to the merits; (2) only serve objections or discovery requests jointly with Lead Petitioner in connection with the Joined Proceeding; however, these restrictions do not apply to any discovery requests Alcon may serve on Apotex; (3) will work together with Lead Petitioner to identify a single

questioner or defending attorney from either Lead Petitioner or Apotex for each deposition in the Joined Proceeding; (4) not participate in oral argument in the Joined Proceeding at the oral hearing. Apotex may attend all depositions, telephonic conferences, and oral argument in the Joined Proceeding, and will be served with all papers and exhibits served by Lead Petitioner on Patent Owner or by Patent Owner on Lead Petitioner. Either Lead Petitioner or Apotex will take the lead in raising or responding to an argument before the Board, but in no case shall Lead Petitioner and Apotex both argue to the Board on the same issue unless specifically requested by the Board.

4. The parties agree that the arguments and evidence presented in Apotex's petition are duplicative of the arguments and evidence presented in Lead Petitioner's petition. Apotex agrees to proceed in the Joined Proceeding based only upon the arguments and evidence advanced by Lead Petitioner.

5. The presence of Apotex in the Joined Proceeding shall not be a basis for any alteration of the schedule, nor shall Apotex's joinder affect the times allocated for cross-examination, redirect, or re-cross examination of any witness. Nor shall the presence of Apotex in the Joined Proceedings be the basis for altering the allotted length of any papers filed in the proceedings, unless additional length is needed to address an issue unique to Apotex. In such cases, Apotex will approach the Board for permission to address these issues and to obtain additional

length to the papers if it believes that additional length is needed. Argentum and Alcon agree not to oppose any request by Apotex to the Board for permission to address additional issues or for permission to obtain additional pages.

Notwithstanding the above, however, Alcon reserves its ability to oppose the merits of any request for relief by Apotex and to argue that the Board should not grant any relief sought by Apotex.

6. In the event that Lead Petitioner is terminated from the Joined Proceeding by settlement or for any other reason, Alcon and Apotex agree to confer in good faith regarding a fair and efficient framework for completing the remainder of the Joined Proceeding.

Date: September 15, 2016

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