

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MYLAN INSTITUTIONAL INC.  
Petitioner,

v.

FRESENIUS KABI USA, LLC  
Patent Owner.

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Case IPR2017-00643  
Patent No. 9,168,238

**PETITIONER'S REQUEST FOR REFUND OF IPR FEES**

Petitioner Mylan Institutional Inc. (“Mylan”) requests a refund in the amount of \$ 20,000 to be paid to Deposit Acct. No. 160605 (Customer ID No. 00826) pursuant to the U.S. Patent and Trademark Office’s Final Rule Setting and Adjusting Patent Fees, 78 F.R. 4211, 4234-35 (Jan. 18, 2013).

On January 19, 2017, Mylan filed a Petition for *inter partes* review against U.S. Patent No. 9,168,238, proceeding IPR2017-00643. In accordance with the fee schedule specified in 37 C.F.R. § 42.15(a), Mylan deposited an electronic payment in the amount of \$ 31,000 with the PTO at the time of filing its Petition. Mylan’s payment consisted of \$ 11,000 in fees associated with Mylan’s *inter partes* review request, and a further \$ 20,000 in Post-Institution fees.

Mylan and Patent Owner Fresenius Kabi USA, LLC (“Fresenius”) entered into a settlement agreement that resolved all underlying disputes between the parties, including the *inter partes* review proceeding IPR2017-00643, against U.S. Patent No. 9,168,238. Accordingly, on April 13, 2017, the parties jointly moved to terminate this proceeding pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74.

On April 19, 2017, the Board entered a decision to terminate proceeding IPR2017-00643. Accordingly, Mylan requests a refund in the amount of \$20,000 for the Post-Institution fees.

RESPECTFULLY SUBMITTED,

Date: April 20, 2017

/Jitendra Malik/

Jitendra Malik  
Reg. No. 55823  
Alston & Bird LLP  
4721 Emperor Boulevard, Suite 400  
Durham, North Carolina 27703

*Lead Counsel for Petitioner  
Mylan Institutional Inc.*

**CERTIFICATION OF SERVICE**

The undersigned certifies a copy of the foregoing **PETITIONER'S REQUEST FOR REFUND OF IPR FEES** was served on April 20, 2017 via electronic mail directed to the counsel of record for the Patent Owner at the following:

Imron T. Aly  
[ialy@schiffhardin.com](mailto:ialy@schiffhardin.com)

Jason G. Harp  
[jharp@schiffhardin.com](mailto:jharp@schiffhardin.com)

John K Hsu  
[jhsu@schiffhardin.com](mailto:jhsu@schiffhardin.com)

Respectfully submitted,

Alston & Bird LLP

By: /Jitendra Malik/

Jitendra Malik, Ph.D.  
Reg. No. 55823  
Alston & Bird LLP  
4721 Emperor Blvd., Suite 400  
Durham, NC 27703-8580  
[jitty.malik@alston.com](mailto:jitty.malik@alston.com)

*Attorneys for Petitioner  
Mylan Institutional Inc.*