

Paper No. ____
Date Filed: March. 8, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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 IPR2017-00853
Patent 8,822,438

**JANSSEN ONCOLOGY, INC.'S OPPOSITION TO MOTION FOR
JOINDER PURSUANT TO 35 U.S.C. § 315(c) AND 37 C.F.R. § 42.122(b)**

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. FACTUAL BACKGROUND	1
III. LEGAL STANDARDS.....	4
IV. ARGUMENT	6
A. The Board Should Exercise its Discretion to Discourage Late Requests for Joinder	6
B. Joinder Would Not Simplify Briefing and Discovery	8
C. If Joinder is Granted, the Board Should Impose Strict Safeguards	10
V. CONCLUSION.....	12

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Brinkmann Corp. v. A&J Mfg., LLC</i> , IPR2015-00056, Paper 10 (PTAB March 23, 2015)	8
<i>Int’l Bus. Machines Corp. v. Elec. & Telecomms. Research Inst.</i> , IPR2014-00949, Paper 25 (PTAB Jan. 28, 2015)	11
<i>Kyocera Corp. v. Softview LLC</i> , IPR2013-00004, Paper 15 (PTAB Apr. 24, 2013)	5
<i>Samsung Elec. Co., Ltd. v. Arendi S.A.R.L.</i> , IPR2014-01144, Paper 11 (PTAB Oct. 2, 2014)	4, 5
<i>Skimlinks, Inc. v. Linkgine, Inc.</i> , CBM2015-00086, Paper 17 (PTAB Jun. 12, 2015)	11
<i>Unified Patents, Inc. v. PersonalWeb Tech.</i> , LLC, IPR2014-00702, Paper 12 (PTAB Jul. 24, 2014)	4, 5, 7, 8
Statutes	
35 U.S.C. § 315(b)	4, 8, 9
35 U.S.C. § 315(c)	4, 5, 6
35 U.S.C. § 315(c)	14
Other Authorities	
37 C.F.R. §§ 42.20(c), 42.122(b)	5
37 C.F.R. § 42.122(b)	14
157 Cong. Rec. S1376.....	6, 7

I. INTRODUCTION

Patent Owner Janssen Oncology, Inc. (“Janssen”) respectfully requests that the Board deny Petitioners’¹ motion for joinder of IPR2017-00853 (the “Actavis IPR”) with IPR2016-01332 (the “Mylan IPR”). The Actavis IPR and the Mylan IPR are both directed to Janssen’s U.S. Patent No. 8,822,438 (the “’438 patent”).

As explained below, the Board should deny Petitioners’ motion because the serial challenges to the ’438 patent brought by what now amounts to 14 different petitioners are prejudicial to Janssen and are the exact type of practice that the Board should discourage. Rather than simplifying briefing and discovery, as Petitioners suggest, joinder may further complicate discovery in an already condensed schedule in the Mylan IPR.

II. FACTUAL BACKGROUND

The present petition for *inter partes* review is the latest in a growing list of

¹ There are ten named Petitioners in this proceeding: 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.

IPR2017-00853
Patent 8,822,438

staggered attacks aimed at challenging the patentability of the claims of the '438 patent. Amerigen Pharmaceuticals Limited (“Amerigen”) filed the first IPR petition on December 4, 2015 seeking review of all 20 claims of the '438 patent. *See Amerigen Pharms. Ltd. v. Janssen Oncology, Inc.*, IPR2016-00286, Paper 1 (PTAB Dec. 4, 2015) (the “Amerigen IPR”). The Board instituted the Amerigen IPR on May 31, 2016 based on two grounds of unpatentability. *See Amerigen*, IPR2016-00286, Paper 14.

Half-a-year later—on June 29 and June 30, 2016, respectively—Argentum Pharmaceuticals LLC (“Argentum”) and Mylan Pharmaceuticals Inc. (“Mylan”) followed with their own separate IPR petitions. *See Argentum Pharms. LLC v. Janssen Oncology, Inc.*, IPR2016-01317, Paper 2 (PTAB June 29, 2016) (the “Argentum IPR”) and *Mylan Pharms. Inc. v. Janssen Oncology, Inc.*, IPR2016-01332, Paper 1 (PTAB June 30, 2016) (the “Mylan IPR”). Concurrently with their respective IPR petitions, Argentum and Mylan filed motions seeking joinder with the Amerigen IPR.

On August 10, 2016, Wockhardt Bio AG (“Wockhardt”) filed a fourth petition seeking cancellation of all 20 claims of the '438 patent. *Wockhardt Bio AG v. Janssen Oncology, Inc.*, IPR2016-01582, Paper 4 (PTAB Aug. 10, 2016) (the “Wockhardt IPR”).

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