

From: Parmelee, Steve [<mailto:sparmelee@wsgr.com>]
Sent: Wednesday, March 7, 2018 1:12 PM
To: Trials <Trials@USPTO.GOV>
Cc: Rosato, Michael <mrosato@wsgr.com>; trea@crowell.com; dyellin@crowell.com; slentz@crowell.com; tliu@agpharm.com; amanda.hollis@kirkland.com; egoryunov@kirkland.com; spark@winston.com; Springsted, Gregory <greg.springsted@kirkland.com>; Mills, Jad <jmills@wsgr.com>; Trenchard, Robert W. <RTrenchard@gibsondunn.com>; Love, Jane M. <JLove@gibsondunn.com>
Subject: RE: IPR2017-00854 - Request for Authorization to Submit Corrected Motion to Amend

Your Honors,

Patent Owner represented in its email below that it had attached the meet-and-confer email string with Petitioner regarding this matter. Patent Owner's attachment failed to include the most recent correspondence. Attached please find the full email string.

Respectfully submitted,

Steven W. Parmelee
Reg. No. 31,990
Lead Counsel for Petitioner Apotex

From: Love, Jane M. [<mailto:JLove@gibsondunn.com>]
Sent: Wednesday, March 07, 2018 9:50 AM
To: Trials
Cc: Rosato, Michael; trea@crowell.com; dyellin@crowell.com; slentz@crowell.com; tliu@agpharm.com; amanda.hollis@kirkland.com; egoryunov@kirkland.com; spark@winston.com; Springsted, Gregory; Parmelee, Steve; Mills, Jad; Trenchard, Robert W.; Love, Jane M.
Subject: IPR2017-00854 - Request for Authorization to Submit Corrected Motion to Amend

To the Members of the Board in IPR2017-00854:

We represent Patent Owner in this matter. We write for the Board's guidance on how to correct a typo Petitioners identified in Patent Owner's Motion to Amend in this matter. The typo accidentally inserted the numeral "2" instead of "3" in the formula for the chemical compound covered by the patent.

Per the attached meet-and-confer email string, we have attempted to resolve this issue with Petitioner through one of two routes:

1. A corrected motion to amend now plus a prompt amended opposition brief by March 16 from Petitioners that deletes the arguments based on the typo (and Petitioners would be free to use that space on other arguments); or
2. That Patent owner can correct the typo on reply without objection or further briefing from Petitioners.

Unfortunately, Petitioners have declined both approaches, and instead say they wish to wait for Patent Owner's reply to decide how to respond to the issue. This procedure is unworkable as it leaves Patent Owner uncertain about the status of this typo, and also threatens the current schedule.

We accordingly seek the Board's guidance on how to proceed. For the Board's information, we attach the corrected motion to amend that we proposed to Petitioners, in the event the Board simply wishes to authorize the filing of that motion without a conference call. If, however, the Board desires a call on the issue, counsel for Patent Owner will of course be available at the Board's convenience.

Respectfully submitted,
Jane M. Love, Ph.D.
Lead Counsel for Patent Owner

Jane M. Love, Ph.D.

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