

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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DR. REDDY'S LABORATORIES, INC.  
Petitioner

v.

ICOS CORPORATION  
Patent Owner

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IPR2017-01757  
Patent No. 6,943,166

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**PATENT OWNER'S OPPOSITION TO PETITIONER'S MOTION FOR  
JOINDER**

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**Other Authorities**

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## I. INTRODUCTION

Dr. Reddy's Laboratories' ("DRL") motion for joinder to IPR2017-00323 ("the Mylan IPR") should be denied as it fails to meet the burden of showing that joinder is appropriate. 37 C.F.R. § 42.20(c). To the contrary, joinder of DRL will needlessly complicate and extend the Mylan IPR that Mylan and Patent Owner (ICOS Corp.) have already moved to terminate—contravening the Board's charge to resolve "*every proceeding*" in a "just, speedy, and inexpensive" manner. 37 C.F.R. §§ 42.1(b) (emphasis added).

DRL's efficiency argument is premised on the false representation that their evidence is "identical" to the Mylan IPR, when in fact DRL uses different experts. DRL's argument that joinder will avoid "duplicate" efforts by the Board ignores that, even with joinder, the Board still needs to consider the substance of DRL's petition and Patent Owner's preliminary response thereto. *See* 35 U.S.C. 315 (c).

DRL's motion also fails due to its omission of the required specific discussion of the impact that joinder would have on the trial schedule, or how briefing and discovery may be simplified. *See Kyocera Corp. v. SoftView LLC*, Case IPR2013-00004, Paper 15 at 4 (PTAB Apr. 24, 2013) (representative). Indeed, as detailed below, joinder at this stage will have a considerable negative impact on the trial schedule and unduly prejudice Patent Owner.

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