

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**ARGENTUM PHARMACEUTICALS LLC,
PETITIONER**

v.

**COSMO TECHNOLOGIES LIMITED,
PATENT OWNER**

**CASE IPR2018-00080
Patent 9,320,716**

**PATENT OWNER'S PRELIMINARY PATENT OWNER RESPONSE
UNDER 37 C.F.R. § 42.107**

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I. INTRODUCTION

Petitioner Argentum (“Petitioner”) filed this petition for *inter partes* review after an institution decision was rendered in *Mylan Pharmaceuticals, Inc. v. Cosmo Technologies, Ltd.*, IPR2017-01035 (“Mylan IPR”).¹ Petitioner raises the same grounds that were instituted in the Mylan IPR, but submits a new expert declaration in support. Neither Petitioner nor its new expert declaration, however, addresses the evidentiary deficiencies pointed out by Patent Owner in its prior preliminary response from the Mylan IPR.

In its institution decision in the Mylan IPR (IPR2017-01035, Paper 17), hereinafter “Mylan Institution Decision” or “Decision,” the Board did not agree with all of Patent Owner’s arguments. With this Preliminary Response, Patent Owner now submits new evidence and arguments why institution should be denied. In particular, Patent Owner submits additional evidence showing that, contrary to Petitioner’s position, merely mixing and blending ingredients followed by tablet compression does not result in the claimed “macroscopically homogenous structure.”

¹ Petitioner Mylan Pharmaceuticals Inc. and Patent Owner have since settled their dispute and filed a joint motion for termination. *See* IPR2017-01035, Paper 23.

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