

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

CIPLA LTD.,  
Petitioner

v.

ABRAXIS BIOSCIENCE, LLC,  
Patent Owner

---

Case IPR2018-00162  
Patent 7,820,788 B2  
Issued: October 26, 2010

Title: COMPOSITIONS AND METHODS OF  
DELIVERY OF PHARMACOLOGICAL AGENTS

---

**MOTION FOR JOINDER**  
**Pursuant to 35 U.S.C. § 315(c), 37 C.F.R. §§ 42.22 and 42.122(b)**

## TABLE OF CONTENTS

|  | <b>Page</b> |
|--|-------------|
| I. STATEMENT OF THE PRECISE RELIEF REQUESTED .....   | 1           |
| II. STATEMENT OF MATERIAL FACTS .....  | 2           |
| III. DISCUSSION.....   | 3           |
| A. Cipla’s Motion for Joinder is Timely .....  | 4           |
| B. The Four Factors Weigh in Favor of Joinder .....  | 4           |
| 1. Joinder is Appropriate Because it Will Promote an<br>Efficient Determination of the Validity of the ’788<br>Patent Without Prejudice to any Party.....                      | 4           |
| 2. The Cipla Petition Does Not Raise Any New Grounds<br>of Unpatentability and Therefore Does Not Add<br>Additional Complexity to the Grounds in the Actavis<br>Petition ..... | 5           |
| 3. Joinder Would Not Affect the Schedule of the Actavis<br>IPR.....  | 6           |
| 4. Joinder Will Simplify Briefing and Discovery Because<br>Cipla Will Agree to Consolidate Filings and Coordinate<br>Discovery .....   | 7           |
| IV. CONCLUSION.....  | 8           |

**TABLE OF AUTHORITIES**

|   | <b>Page(s)</b> |
|---|----------------|
| <b>Cases</b>  |                |
| <i>Abraxis BioScience, LLC, et al. v. Actavis LLC,</i><br>C.A. No. 2:16-cv-01925 .....                        | 2              |
| <i>Abraxis BioScience, LLC, et al., v. Cipla Ltd.,</i><br>C.A. No. 2:16-cv 0974-JMV-MF .....                  | 2              |
| <i>Actavis LLC v. Abraxis Bioscience, LLC,</i><br>IPR2017-1101, Paper 7 (PTAB Oct. 10, 2017).....             | 1, 2, 3        |
| <i>Amerigen Pharm. Ltd., v. UCB Pharma GmbH,</i><br>IPR2016-01665, Paper 8 (PTAB Dec. 7, 2016) .....          | 7              |
| <i>Dell Inc. v. Network-1 Sec. Sols., Inc.,</i><br>IPR2013-00385, Paper 17 (PTAB July 29, 2013) .....         | 6              |
| <i>Hyundai Motor Co. v. Am. Vehicular Scis. LLC,</i><br>IPR2014-01543, Paper 11 (PTAB Oct. 24, 2014).....     | 6              |
| <i>Lupin Ltd. v. Horizon Therapeutics, Inc.,</i><br>IPR2016-00284, Paper 11 (PTAB June 8, 2016) .....         | 6              |
| <i>Samsung Bioepis Co., Ltd. v. Genentech, Inc.,</i><br>IPR2017-01960, Paper 1 (PTAB Aug. 25, 2017).....      | 3, 4           |
| <i>Samsung Elecs., Co., Ltd. v. Raytheon Co.,</i><br>IPR2016-00962, Paper 12 (PTAB Aug. 24, 2016).....        | 5, 6           |
| <i>Sony Corp. of Am. v. Network-1 Sec. Sols., Inc.,</i><br>IPR2013-00495, Paper 13 (PTAB Sept. 16, 2013)..... | 6              |
| <i>Sony Corp. v. Memory Integrity, LLC,</i><br>IPR2015-01353, Paper 11 (PTAB Oct. 15, 2015).....              | 6              |
| <i>Torrent Pharm. Ltd., v. UCB Pharma GmbH,</i><br>IPR2016-01636, Paper 10 (PTAB Dec. 7, 2016) .....          | 7              |

**Statutes**

35 U.S.C. § 102.....2  
35 U.S.C. § 102(b) .....3  
35 U.S.C. § 103.....2  
35 U.S.C. § 103(a) .....3  
35 U.S.C. § 315(c) .....1, 3

**Other Authorities**

37 C.F.R. § 42.22 .....1  
37 C.F.R. § 42.122(b) .....1, 3, 4

**I. STATEMENT OF THE PRECISE RELIEF REQUESTED**

Petitioner Cipla Ltd. respectfully requests its petition for *Inter Partes* Review of claims 1–12 of U.S. Patent No. 7,820,788 B2 (the “’788 patent”) (the “Cipla Petition”), be granted and joined pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. §§ 42.22 and 42.122(b) with the petition for *inter partes* review filed by Actavis LLC concerning the ’788 patent: *Actavis LLC v. Abraxis Bioscience, LLC*, IPR2017-01101 (the “Actavis Petition”). Cipla timely submits this request for joinder less than one month after the institution of the Actavis Petition by the Patent Trial and Appeal Board (the “Board”). *See* 37 C.F.R. § 42.122(b).

The Board instituted review of the Actavis Petition on October 10, 2017. The Cipla Petition is identical to the Actavis Petition in all substantive respects, includes identical exhibits to the Actavis Petition, and relies upon the same expert declarant as the Actavis Petition.<sup>1</sup> Actavis does not oppose this motion. As such, institution and joinder will not create an additional burden for the Board and will lead to efficient resolution of the *inter partes* review proceeding.

---

<sup>1</sup> Cipla relies on an expert declaration that is substantively identical to the Actavis expert declaration, except for a single sentence that indicates that Cipla has retained Cory J. Berkland, Ph.D. *See* EX1002 ¶ 1.

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.