

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC. and
DR. REDDY'S LABORATORIES, INC.,
Petitioners,

v.

HORIZON PHARAMA USA, INC. and NUVO PHARMACEUTICALS
(IRELAND) DESIGNATED ACTIVITY COMPANY,
Patent Owners.

Case IPR2017-01995¹
Patent 9,220,698 B2

Before TONI R. SCHEINER, MICHELLE N. ANKENBRAND, and
DEBRA L. DENNETT, *Administrative Patent Judges.*

DENNETT, *Administrative Patent Judge.*

ORDER
Adjusting One-Year Pendency Due to Joinder
37 C.F.R. §§ 42.71(a), 42.72

¹ Petitioner Dr. Reddy's Laboratories, Inc., from IPR2018-00894, has been
joined as a Petitioner to this proceeding.

On March 8, 2018, we instituted an *inter partes* review of claims 1–7 of U.S. Patent No. 9, 220,698 (“the ’698 patent”) in the present proceeding. Paper 18. On August 13, 2018, we joined Dr. Reddy’s Laboratories as a petitioner to this proceeding after granting a Motion for Joinder in IPR2018-00894. Paper 47. On August 31, 2018, we stayed the proceeding because one of the owners of the ’698 patent filed a bankruptcy petition.² Paper 51. The bankruptcy court entered a sale order on December 27, 2018, which lifted the stay of this proceeding. Ex. 1051. Thereafter, we entered an Order revising the Scheduling Order, setting new dates for briefing and setting June 14, 2019 as the new date for oral argument (if requested). Paper 67.

Pursuant to 35 U.S.C. § 316(a)(11), “the final determination in an inter partes review [shall] be issued not later than 1 year after the date on which the Director notices the institution of a review under this chapter, except that the Director . . . may adjust the time periods in this paragraph in the case of joinder under section 315(c).” The Director has delegated the authority to adjust the one-year period to the Board. See 37 C.F.R.

§ 42.100(c). In particular, 37 C.F.R. § 42.100(c) provides:

An *inter partes* review proceeding shall be administered such that pendency before the Board after institution is normally no more than one year. The time can be . . . adjusted by the Board in the case of joinder.

In accordance with 37 C.F.R. § 42.100(c), we adjust the time of pendency before the Board in the present proceeding, which involves joinder, by six months to allow us to consider and determine the pending

² Pozen Inc. and Horizon Pharma USA, Inc. were the patent owners at the time the Petition was filed. See Paper 10. Nuvo Pharmaceuticals (Ireland) Limited acquired Pozen Inc.’s rights in the ’698 patent in September 2018. Ex. 1052.

IPR2017-01995
Patent 9,220,698 B2

issues. The Board will issue a Final Written Decision in this proceeding no later than September 8, 2019.³

For the foregoing reasons, it is

ORDERED that the time of pendency in this proceeding, which involves joinder, is adjusted by six months; and

FURTHER ORDERED that a copy of this Order will be entered into the record of IPR2018-00894.

³ We issue this Order to confirm that a Final Written Decision in the 1995 IPR is no longer due on March 8, 2019. The parties should not read this Order as auguring any specific outcome regarding our consideration of Patent Owner's Motion to Terminate or the parties' briefing related to *Click-to-Call Technologies, LP v. Ingenio, Inc.*, 899 F.3d 1321 (Fed. Cir. 2018).

IPR2017-01995
Patent 9,220,698 B2

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