

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DR. REDDY'S LABORATORIES, INC.
Petitioner

v.

POZEN INC. and HORIZON PHARMA USA, INC.
Patent Owner

Inter Partes Review IPR2018-00894
Patent No. 9,220,698 B2

MOTION FOR JOINDER
PURSUANT TO 35 U.S.C. § 315(c) AND 37 C.F.R. § 42.122(b)

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES.....	ii
I. STATEMENT OF THE PRECISE RELIEF REQUESTED.....	1
II. STATEMENT OF MATERIAL FACTS.....	1
III. STATEMENT OF REASONS FOR RELIEF REQUESTED.....	3
A. Legal Standard.....	3
B. Joinder Will Not Impact the Mylan IPR’s Schedule.....	5
C. Joinder Will Enhance Efficiency by Avoiding Duplicate Efforts and Inconsistencies.....	9
D. A Joined Proceeding Avoids Prejudice to DRL and Will Not Prejudice Mylan or Pozen.....	9
E. Joinder Will Not Prejudice Pozen or Mylan.....	10
IV. CONCLUSION.....	11

TABLE OF AUTHORITIES

	<u>Page</u>
<u>Cases</u>	
<i>Apotex, Inc. and Mylan Pharmaceuticals Inc. v. Novartis AG and Mitsubishi Pharma Corp.</i> , IPR2015-00518	8
<i>Dell, Inc. v. Network-1 Security Solutions, Inc.</i> , IPR2013-00385	4, 5
<i>Horizon Pharma, Inc. v. Dr. Reddy's Laboratories Inc.</i> , Civil Action No. 2:16-cv-04918-SRC-CLW (D.N.J.)	2
<i>Lupin Ltd. and Lupin Pharmaceuticals Inc. v. Senju Pharmaceutical Co., Ltd.</i> , IPR2015-01871	8
<i>Macronix Int'l Co. v. Spansion</i> , IPR2014-00898.....	5
<i>Motorola Mobility, Inc. v. Softview, Inc.</i> IPR2013-00256	6
<i>Mylan Pharmaceuticals Inc. v. Pozen Inc. and Horizon Pharma USA, Inc.</i> , IPR2017-01995	1
<i>Qualcomm Inc. v. DSS Technology Management, Inc.</i> , IPR2016-01312	8
<i>Samsung Elec. Co., Ltd. v. Arendi S.A.R.L.</i> , IPR2014-01518.....	7
<i>SAP America Inc. v. Clouding IP, LLC</i> , IPR2014-00306	8
<i>Teva Pharmaceuticals USA, Inc. v. Allegan, Inc.</i> , IPR2017-00586	8
<i>Torrent Pharmaceuticals Ltd. v. Novartis AG and Mitsubishi Pharma Corp.</i> , IPR2014-00784	8

Statutes and Rules

35 U.S.C. § 102	2
35 U.S.C. § 103	2
35 U.S.C. § 315(c).....	1, 4

..

35 U.S.C. § 316(a)(1)	11
35 U.S.C. § 316(a)(11)	5
35 U.S.C. § 316(b).....	9
35 U.S.C. § 317(a).....	10
37 C.F.R. § 42.1(b).....	9
37 C.F.R. § 42.100(c)	5, 11
37 C.F.R. § 42.122(b).....	1, 4
37 C.F.R. § 42.22.....	1

Other Authorities

157 CONG. REC. S1376 (daily ed. Mar. 8, 2011)	6
---	---

...

I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Petitioner Dr. Reddy's Laboratories, Inc. ("DRL" or "Petitioner") respectfully requests joinder pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b) of the above-captioned *inter partes* review ("the DRL IPR") with the pending *inter partes* review concerning the same patent and the same grounds of invalidity in *Mylan Pharmaceuticals Inc. v. Pozen Inc. and Horizon Pharma USA, Inc.*, IPR2017-01995 ("the Mylan IPR"), which was instituted on March 8, 2018 (Paper 18). The DRL IPR and the Mylan IPR both concern U.S. Patent No. 9,220,698 ("the '698 patent"). Joinder is appropriate because it will promote efficient and consistent resolution of the invalidity grounds at issue and will not prejudice any of the parties in the Mylan IPR, namely Mylan Pharmaceuticals Inc. ("Mylan") or patent owners Pozen Inc. or Horizon Pharma USA, Inc. (collectively "Pozen" or "Patent Owners"). Absent joinder, Petitioner could be prejudiced if the Mylan IPR is terminated before a final written decision is issued because Petitioner's interests would not be adequately represented before the Board. Accordingly, joinder should be granted.

This Motion for Joinder and accompanying Petition for *Inter Partes* Review of the '698 patent are timely under 37 C.F.R. §§ 42.22 and 42.122(b) because Petitioner submitted both within one month of the March 8, 2018 date of institution of the Mylan IPR.

II. STATEMENT OF MATERIAL FACTS

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.