

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 Owners

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

**PETITIONER'S REPLY TO PATENT OWNERS' OPPOSITION TO
MOTION FOR JOINDER WITH IPR2017-01995**

Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.23 Petitioner Dr. Reddy's Laboratories, Inc. ("DRL" or "Petitioner") submits this Reply to Patent Owners Pozen, Inc.'s and Horizon Pharma USA Inc.'s ("Patent Owners") Opposition to Petitioner's Motion for Joinder with pending IPR2017-01995 (the "Mylan IPR") regarding U.S. Patent No. 9,220,698 (the '698 patent") (Paper 8). Mylan Pharmaceuticals Inc. ("Mylan") is the Petitioner in IPR2017-01995.

On April 30, 2018 Petitioner informed the Board and all parties to IPR2018-00894 and IPR2017-01995 by email that:

Mylan has agreed to share its experts with DRL and that Mylan consents to joinder of IPR2018-00894 with instituted IPR2017-01995 (where Mylan is the Petitioner). As already set forth in DRL's Motion for Joinder in IPR2018-00894, DRL agrees to take a "backseat" position to Mylan if the Motion for Joinder is granted, and to let Mylan take the lead.

DRL's Joinder Motion had already set forth that DRL would *not* rely on the declarations of its own experts if Mylan agreed to share its experts with DRL.

In order to simplify the proceeding further, Petitioner will rely on the same experts as Mylan, should Mylan permit Petitioner to do so. If Mylan allows Petitioner to retain the same experts, *Petitioner will withdraw its expert declarations of Drs. Solny and Bergstrom* and rely

solely on the declarations and testimony of Mylan’s experts, Drs. Metz and Mayersohn.

Joinder Motion (Paper 3, at 7) (emphasis added). Though Patent Owners assert that “DRL has made no representation that it would withdraw its own expert declarations or otherwise agree to not rely on the direct testimony of its own experts in any way,” (Paper 8, at 3), DRL’s statement block quoted immediately above is exactly that. Nevertheless, DRL reiterates that based on Mylan’s agreement to share its experts (Drs. Metz and Mayersohn) with DRL, DRL withdraws the declarations of its own experts (Drs. Solny and Bergstrom) and will not rely on them.

Patent Owners raise further questions that Petitioner has already answered. DRL has already agreed to the “conditions” set forth set forth in the Conclusion of Patent Owners’ Opposition. *See* Joinder Motion, Paper 3, at 6-7, n.2-3.

Contrary to Patent Owners’ assertion, Petitioner’s Joinder Motion and Petition are timely¹ under 37 C.F.R. §§ 42.22 and 42.122(b) because Petitioner submitted

¹ Indeed, it is Patent Owners’ Opposition that is tardy. Patent Owners filed and served their Opposition to Petitioner’s Joinder Motion on May 9, 2018 – thirty-three (33) days after the April 6, 2018 filing and service of Petitioner’s Joinder Motion. This is not within the requisite one month time period set forth in 37 C.F.R. § 42.25(a)(1).

both within one month of the March 8, 2018 date of institution of the Mylan IPR. Notwithstanding their assertion to the contrary in n.1 of their Opposition, Patent Owners may not refight the timeliness of the Mylan IPR here.

For all the foregoing reasons, Petitioner respectfully requests that the Board institute IPR2018-00894 on the same grounds as in the Mylan IPR, and that this proceeding be joined with the Mylan IPR.

Date: May 11, 2018

Respectfully submitted,

/ Alan H. Pollack /

Alan H. Pollack (Reg. No. 39,802)

Stuart D. Sender (Reg. No. 34,248)

Louis H. Weinstein (Reg. No. 45,205)

BUDD LARNER, P.C.

150 John F. Kennedy Parkway

Short Hills, NJ 07078

apollack@buddlerner.com

ssender@buddlerner.com

lweinstein@buddlerner.com

Telephone: (973) 379-4800

Facsimile: (973) 379-7734

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105, I certify that on this eleventh day of May, 2018, the foregoing **REPLY TO PATENT OWNERS' OPPOSITION TO MOTION FOR JOINDER WITH IPR2017-01995** was served via electronic mail to Lead and Backup Counsel in this IPR and Lead and Backup Counsel for Petitioner in IPR2017-01995 at the following E-mail addresses:

BMWhite@perkinscoie.com
ANero@perkinscoie.com
RSwanson@perkinscoie.com
BBeel@perkinscoie.com
stephen.hash@bakerbotts.com
escordino@cooley.com
tblinka@cooley.com
jgraves@cooley.com
msampson@bakerbotts.com
jgritton@bakerbotts.com

Dated: May 11, 2018

By: /s/ Alan H. Pollack
Alan H. Pollack
Reg. No. 39,802