IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ELI LILLY AND COMPANY
Petitioner,

v.

TEVA PHARMACEUTICALS INTERNATIONAL GMBH
Patent Owner.

Case IPR2018-01423
U.S. Patent No. 9,266,951

TEVA PHARMACEUTICALS INTERNATIONAL GMBH'S PRELIMINARY RESPONSE UNDER 37 C.F.R. § 42.107(a)

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Patent Owner Teva Pharmaceuticals International GmbH ("Teva") provides this preliminary response to Petitioner Eli Lilly and Company's ("Lilly") petition for *inter partes* review of claims 1-6 and 14-19 of U.S. Patent No. 9,266,951 ("the '951 patent"; EX1001) in accordance with 37 C.F.R. § 42.107(a).

I. Introduction

In this proceeding, Lilly wants to cancel Teva's patent claims protecting its groundbreaking, humanized monoclonal anti-CGRP antagonist antibodies. Yet Lilly's entire effort to cancel as obvious claims to something that it once itself thought worthy of patenting is troubling. *See* EX1127. Until the present inventors' contribution, the therapeutic focus for CGRP receptor-mediated disorders was on CGRP *receptor* antagonism and the antagonist development focused on *small molecule receptor* antagonists, such as BIBN4096BS. EX1025. Before the present inventors filed their humanized anti-CGRP antagonist antibody applications, to the extent that antibodies to CGRP were used, it was as research tools to answer basic science questions related to, for example, receptor-ligand interaction. That Lilly now turns to those same research tools as a basis for its obviousness challenge contradicts its own contemporaneous efforts to seek patent protection for anti-CGRP antibodies and methods of use thereof.

To be instituted, a petition for IPR must establish at least a reasonable likelihood that it could prevail against at least one challenged claim. Lilly's Petition

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