

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 IPR2018-01422 (Patent No. 9,340,614)
Case IPR2018-01423 (Patent No. 9,266,951)
Case IPR2018-01424 (Patent No. 9,346,881)
Case IPR2018-01425 (Patent No. 9,890,210)
Case IPR2018-01426 (Patent No. 9,890,211)
Case IPR2018-01427 (Patent No. 8,597,649)¹

Before RICHARD J. SMITH, *Administrative Patent Judge*.
SMITH, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

¹This Order addresses issues that are common to all six cases. We, therefore, issue a single Order that has been entered in each case. The parties may use this style caption when filing a single paper in multiple proceedings, provided that such caption includes a footnote attesting that “the word-for-word identical paper is filed in each proceeding identified in the caption.”

Petitioner Eli Lilly and Company filed six Petitions (Paper 1),² and Patent Owner Teva Pharmaceuticals International GMBH filed a Preliminary Response (Paper 8) to each Petition. Each Preliminary Response argues that the Board should exercise its discretion and deny the respective Petition under 35 U.S.C. § 325(d).

In an e-mail to the Board on December 6, 2018, Petitioner requested a telephone conference to seek authorization to file a reply to address the Section 325(d) issue. Patent Owner opposed Petitioner's request to file a reply. A conference call was held between counsel for the parties and the Board (Judges Smith, Worth, and Paulraj) on December 11, 2018, to discuss Petitioner's requested reply.

During the conference call, the Board discussed the reasons for Petitioner's request, giving the parties the opportunity to present their arguments and explanations to support their positions. Petitioner was questioned about the good cause requirement, and Patent Owner was given an opportunity to respond to Petitioner's position regarding good cause.

Based on our consideration of the parties' positions, it is hereby:

ORDERED that Petitioner may file a 5-page reply brief in each of the above referenced *inter partes* review proceedings, limited to addressing Patent Owner's arguments under Section 325(d), within 7 business days of this Order; and

FURTHER ORDERED that Patent Owner is authorized to (but not required to) file a 5-page sur-reply in response to Petitioner's reply brief within 7 business days of service of the reply.

² Paper numbers in this Order refer to papers filed in IPR2018-01422.

IPR2018-01422, -01423, -01424, -01425, -01426, and -01427

FURTHER ORDERED that no declaration or other evidence may be submitted with the reply or sur-reply.

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