

From: Torczon, Richard <rtorczon@wsgr.com>

Sent: Thursday, November 14, 2019 7:46 AM

To: Trials <Trials@USPTO.GOV>

Cc: Josh Griswold <griswold@fr.com>; Desai, Anish <anish.desai@weil.com>; IPR28328-0010IP1 <IPR28328-0010IP1@fr.com>; Derryberry, Wes <werryberry@wsgr.com>; Thomas, Tasha <tthomas@wsgr.com>; Carsten, Douglas <dcarsten@wsgr.com>; Guise, Jeff <JGuise@wsgr.com>; Dykhuis, Arthur <adykhuis@wsgr.com>; Steiner, Ellie <esteiner@wsgr.com>; Chu, Franklin <ychu@wsgr.com>; Westin, Lori <lwestin@wsgr.com>; Stafford, Nicole <nstafford@wsgr.com>; JWong@winston.com; PfizerIPRs@winston.com; Ansley, Sutton <sutton.ansley@weil.com>; Karl Renner <renner@fr.com>; John S. Goetz <Goetz@fr.com>; Matt Colvin <colvin@fr.com>; Kenneth Darby <kdarby@fr.com>

Subject: RE: IPR2018-01670, -01676, -01678, -01679, -01680, and -01682 - for motion to strike/sur-surreply

Your Honors:

Mylan requested (see below) to strike Sanofi exhibit 2319 and accompanying portions of the surreplies:

IPR2018-01670 at 12
IPR2018-01676 at 7
IPR2018-01678 at 6
IPR2018-01682 at 9

Sanofi contacted the Board and offered to withdraw EX2319, but not the corresponding portions of the surreplies (see below).

Sanofi's offer does not remedy the problem, it exacerbates it. Without the exhibit, the Board will not be able to see why the citing portions of the surreplies are so wrong. If the improper declaration and accompanying portions of the surreplies are not struck, Mylan should be permitted an opportunity to cross examine Mr. Veasey and file a sur-surreply.

Although the Veasey declaration remains in the record, Sanofi declines to make Mr. Veasey available for cross examination.

The parties are available for a call with the Board today (11/14) or after 1 pm Eastern on Monday (11/18).

Respectfully,
Richard Torczon
Reg. No. 34,448
Counsel for Mylan

From: Desai, Anish <anish.desai@weil.com>

Sent: Friday, 8 November 2019 14.16

To: trials@uspto.gov

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Dear Trial Board,

After further consideration, and in response to Petitioner's email below, Patent Owner will agree to expunge Ex. 2319. Mr. Veasey's declaration (Ex. 2319) was served as supplemental evidence on July 16, 2019 in response to evidentiary objections made by Petitioner. As Petitioner has not yet filed a motion to exclude, the filing of this exhibit was not necessary. Patent Owner reserves the right to re-file the declaration in response to any motion to exclude filed by Petitioner.

Respectfully submitted,
Anish Desai
Counsel for Patent Owner

From: Torczon, Richard <rtorczon@wsgr.com>

Sent: Thursday, November 7, 2019 3:50 PM

To: Josh Griswold <griswold@fr.com>; trials@uspto.gov

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Subject: IPR2018-01670, -01676, -01678, -01679, -01680, and -01682 - for motion to strike/sur-surreply

Your Honors,

Patent owner Sanofi submitted improper new exhibits with its surreplies in violation of the trial practice guide. In particular, petitioner Mylan seeks to strike EX2319 (Veasey declaration) and corresponding portions of the surreplies in IPR' 1670, IPR' 1676, IPR' 1678, and IPR' 1682. Mylan also seeks to strike new argument in IPR' 1679 (on pp. 4-5, 13-14) and IPR' 1680 (pp. 8-9). The affected portions have already been identified to Sanofi.

In the alternative, Mylan seeks authorization for a sur-surreply in these cases to address the new argument and to provide a briefing opportunity after cross-examining Mr. Veasey.

Sanofi opposes these requests.

The parties are available a call at Friday, 11/8, after 2 ET; Monday, 11/11, before 2 ET; and Tuesday, 11/12, after 2 ET. Please note that Sanofi has a pending request for a call (below) for the same times.

Respectfully,
Richard Torczon
Counsel for Mylan

IPR2018-01676, -01678, -01680
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