

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ELI LILLY AND COMPANY  
Petitioner

v.

TEVA PHARMACEUTICALS INTERNATIONAL GMBH  
Patent Owner.

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Case IPR2018-01710 (Patent No. 8,586,045 B2)  
Case IPR2018-01711 (Patent No. 9,884,907 B2)  
Case IPR2018-01712 (Patent No. 9,884,908 B2)<sup>1</sup>

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Before JENNIFER MEYER CHAGNON, JAMES A. WORTH, and  
RICHARD J. SMITH, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

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

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<sup>1</sup>This Order addresses issues that are common to all three 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.”

IPR2018-01710 (Patent 8,586,045 B2)

IPR2018-01711 (Patent 9,884,907 B2)

IPR2018-01712 (Patent 9,884,908 B2)

*Inter partes* review was instituted in the above-referenced cases on April 3, 2019. Paper 12.<sup>2</sup> Patent Owner filed a Response (Paper 21) to each Petition, and Petitioner filed a Reply (Paper 32) to each Response.<sup>3</sup>

In an e-mail to the Board on October 11, 2019, Patent Owner requested authorization to “file a 5-page motion to strike portions of Petitioner’s Replies, certain new exhibits, and portions of expert testimony,” in each of the above-referenced *inter partes* reviews. Ex. 3001.

Specifically, Patent Owner seeks to strike (1) “Exhibit 1287 and Petitioner’s Reply arguments that relate to that Exhibit because Petitioner improperly uses this new evidence to attempt to further support its arguments that [] there was a motivation to make the claimed antibodies,” and (2) “new expert testimony from Dr. Balthasar relating to the effectiveness of Tan’s full-length antibody in Exhibit 1022, and Petitioner’s Reply arguments that rely upon those portions of Dr. Balthasar’s declaration.” *Id.*

Patent Owner states that we previously approved a similar request in related IPRs (*see, e.g.*, IPR2018-01422, Paper 42), and that “Petitioner confirmed that it opposes Patent Owner’s request but that if the Board determines it would benefit from briefing, Petitioner agrees to the proposed schedule and page limits.” Ex. 3001.

Patent Owner is correct that we previously approved a similar request in related IPRs (*see, e.g.*, IPR2018-01422, Paper 42); however, that previous Order allowed seven *business* days for Patent Owner’s paper and seven *business* days for Petitioner’s reply. *Id.* Because the respective filings in the above-referenced *inter partes* reviews will address matters that are similar to

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<sup>2</sup> Paper numbers in this Order refer to papers filed in IPR2018-01710.

<sup>3</sup> By stipulation of the parties, Patent Owner’s Sur-reply is due November 13, 2019. Paper 19.

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the matters addressed in the related IPRs, the parties are given seven *calendar* days for their respective filings in the above-referenced *inter partes* reviews.

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

ORDERED that Patent Owner may file a 5-page paper, in each of the above-referenced *inter partes* reviews, on or before October 22, 2019, identifying the exhibits, testimony, and arguments that it contends exceed the scope of a proper reply;

FURTHER ORDERED that Petitioner may file a 5-page reply in response to Patent Owner's paper, in each of the above-referenced *inter partes* reviews, on or before October 29, 2019; and

FURTHER ORDERED that no declaration or other evidence may be submitted with Patent Owner's paper or Petitioner's reply.

IPR2018-01710 (Patent 8,586,045 B2)

IPR2018-01711 (Patent 9,884,907 B2)

IPR2018-01712 (Patent 9,884,908 B2)

PETITIONER:

William B. Raich

Erin M. Sommers

Pier D. DeRoo

Yieyie Yang

FINNEGAN, HENDERSON, FARABOW,

GARRETT & DUNNER, LLP

william.raich@finnegan.com

erin.sommers@finnegan.com

pier.deroo@finnegan.com

yieyie.yang@finnegan.com

Sanjay M. Jivraj

Mark J. Stewart

ELI LILLY AND COMPANY

jivraj\_sanjay@lilly.com

stewart\_mark@lilly.com

PATENT OWNER:

Deborah A. Sterling

Robert C. Millonig

Gaby L. Longsworth

Jeremiah B. Frueauf

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

dsterling-ptab@sternekessler.com

bobm-ptab@sternekessler.com

glongs-ptab@sternekessler.com

jfrueauf-ptab@sternekessler.com