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UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PATENT TRIAL AND APPEAL BOARD

JANSSEN PHARMACEUTICALS,	)	
INC., and JANSSEN	)	
PHARMACEUTICA NV,	)	
Patent Owner,	)	IPR2020-00440
vs.	)	
MYLAN LABORATORIES INC.,	)	
Petitioner.	)	
	)	

REPORT OF PROCEEDINGS

JUNE 30, 2020

REPORT OF PROCEEDINGS via teleconference of  
the above-entitled cause before the Honorable John  
G. New, Robert A. Pollock, and Kristina M. Kalan,  
Judges of said Panel, on the 30th day of June 2020  
at the hour of 1:00 p.m.

Certification No. 084-003435

1 APPEARANCES:

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appeared on behalf of the  
Patent Owner.

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Also Present:

24

Ms. Jennifer Reda, Janssen In-House Counsel

25

(All parties appeared via teleconference.)

1 JUDGE NEW: Good afternoon, everybody. Are  
2 counsel for both parties present?

3 MR. MALIK: Yes, Your Honor.

4 JUDGE NEW: Great. My name is Judge John  
5 New. I'm joined here by my colleagues, Judge Robert  
6 Pollock and Judge Kristina Kalan.

7 Could parties or counsel for both parties  
8 please identify themselves for the record.

9 MR. MALIK: Your Honor, this is Jitendra  
10 Malik, lead counsel for Mylan. With me is backup  
11 counsel, Guylaine Hache.

12 MR. COHEN: And then for Patent Owner, this  
13 is Andrew Cohen from Patterson Belknap, backup  
14 counsel. With me is Barbara Mullin from Patterson  
15 Belknap, lead counsel; Ruben Munoz from Akin Gump,  
16 backup counsel and listening in is Jen Reda,  
17 in-house counsel for the Patent Owner.

18 JUDGE NEW: Great. Thank you. Welcome  
19 everybody. Good afternoon. We have a couple of  
20 issues before us today as I understand correctly  
21 from the email that I received. The first is the  
22 easy one, so let's do that one first. And that is  
23 that counsel for Petitioner has requested additional  
24 briefing on the 314(a), 325(d) issue with specific  
25 reference to Apple factor 6 and requested a one-week

1 deadline for a five-page reply.

2 Patent Owner does not oppose that as long as  
3 they can grant -- they can file a similar one-week,  
4 following week five-page surreply. Do I understand  
5 that correctly?

6 MR. MALIK: Your Honor, I think generally  
7 yes. I think what the request is is to address all  
8 the Apple factors. The reason we specifically noted  
9 325 because Janssen's discussion of 325 -- normally  
10 325 is a stand-alone section separate from 314, but  
11 they incorporated 325 in connection with Apple  
12 factor 6, so we just wanted to notify the PTAB why  
13 we were talking about 325 when if you look at their  
14 table of contents, you don't see a specific section  
15 for 325.

16 So the request is for actually ten pages for  
17 325 -- well, 314, Apple factors 1 through 6, which  
18 would incorporate a discussion of 325. And to the  
19 extent the PTAB is inclined to discuss also what I  
20 call the umbrella term "inventorship," ten pages  
21 total across the board.

22 JUDGE NEW: We'll get to inventorship in a  
23 moment, but this is the unopposed portion of this,  
24 right, is dealing with the Apple factors. And you  
25 wanted five pages for that in one week and we'll

1 deal with the inventorship next.

2 MR. MALIK: I think what we're asking for is  
3 what I envision is us spending about -- if we get  
4 ten pages, us spending seven pages on the Apple  
5 factors and about three on the inventorship issues,  
6 the vast majority. So we're asking for a little bit  
7 more than five, not necessarily -- not that much  
8 more, but just a couple more pages just so we can  
9 address those issues.

10 And I'll note that that request for, you  
11 know, around about ten pages is typical for 314, 325  
12 and I can provide more cases, IPR cases, where a  
13 similar request was granted. In fact, in one of the  
14 Mylan cases it was granted.

15 JUDGE NEW: All right. So I understand  
16 that -- Mr. Cohen, that Janssen doesn't oppose  
17 briefing on that particular issue, additional  
18 briefing.

19 MR. COHEN: Yeah. This is Andrew. That is  
20 correct, provided it's limited to the Apple factors.  
21 We recognize that the Petitioner didn't have the  
22 benefit of the Apple decision when it filed its  
23 petition. So we are okay with that.

24 We don't view it as an opportunity to -- for  
25 a wide-ranging reply to address all the

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