

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TEVA PHARMACEUTICALS USA, INC., and  
WATSON LABORATORIES, INC.  
Petitioners,

v.

MERCK SHARP & DOHME CORP.,  
Patent Owner.

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Case IPR2020-01045  
U.S. Patent 7,326,708

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**PATENT OWNER'S OPPOSITION TO MOTION FOR JOINDER**

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Teva Pharmaceuticals USA, Inc. and Watson Laboratories, Inc.

(collectively, “Teva”), seek joinder with Mylan Pharmaceuticals Inc. (“Mylan”) in *Mylan Pharmaceuticals Inc. v. Merck Sharp & Dohme Corp.*, IPR2020-00040 (“Mylan IPR”). Paper 4. In separate proceedings, Dr. Reddy’s Laboratories, Inc. and Dr. Reddy’s Laboratories, Ltd. (collectively, “DRL”), IPR2020-01060, Paper 3, and Sun Pharmaceutical Industries, Ltd. (“Sun”), IPR2020-01072, Paper 2, also seek to join the Mylan IPR.

Pursuant to the Board’s June 18, 2020 Order, Paper 5, Merck conferred with Teva, DRL, Sun (“Joinder Petitioners”), and Mylan (Mylan, collectively with Joinder Petitioners, “Petitioners”), to determine what, if any, issues related to joinder remain in dispute. Merck sought (1) Petitioners’ agreement to structure any joined proceedings such that Merck would have an opportunity to seek and receive party discovery from Joinder Petitioners before deposing Mylan’s sole expert and before submitting its Patent Owner’s Response; and (2) Joinder Petitioners’ agreement to serve a true understudy role in the Mylan IPR, including by withdrawing each of their experts once Mylan’s expert was deposed.

Petitioners have not agreed to these conditions. Joinder therefore threatens to deprive Merck of its discovery rights because the current Mylan IPR schedule does not allow time for Merck to seek and receive discovery and make use of it in the IPR. Indeed, although Joinder Petitioners indicate that they will abide by

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