

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUN PHARMACEUTICAL INDUSTRIES LTD.
Petitioner,

v.

MERCK SHARP & DOHME CORP.,
Patent Owner.

Case IPR2020-01072
U.S. Patent 7,326,708

PATENT OWNER'S OPPOSITION TO MOTION FOR JOINDER

TABLE OF CONTENTS

I. LEGAL STANDARD2

II. ARGUMENT.....3

 A. Joinder Necessitates an Order Providing for an Orderly Party
 Discovery Process.4

 B. Joinder Necessitates an Adjustment to the Schedule.....9

 C. Joinder Requires that Joinder Petitioners Serve the Role of True
 Understudies.....11

 D. In the Absence of Needed Safeguards, Merck Opposes Joinder.13

TABLE OF AUTHORITIES

<i>Aurobindo Pharma U.S.A. Inc. v. Astrazeneca AB,</i> IPR2016-01117, Paper 12 (P.T.A.B. Oct. 21, 2016)	12
<i>Central Security Grp. – Nationwide, Inc., v. Ubiquitous Connectivity, LP,</i> IPR2019-01610, Paper 12 (P.T.A.B. Feb. 26, 2020).....	13
<i>Clear-vu Lighting LLC v. University of Strathclyde,</i> IPR2019-00588, Paper 14 (P.T.A.B. Apr. 19, 2019)	9
<i>Dr. Reddy’s v. Horizon, Inc.,</i> IPR2018-01341, Paper 21 (P.T.A.B. Apr. 19, 2019)	12, 13
<i>Ericsson Inc., v. Uniloc</i> 2017 LLC, IPR2020-00376, Paper 16 (P.T.A.B. May 22, 2020).....	12
<i>Garmin International, Inc. v. Cuozzo Speed Techs, LLC,</i> IPR2012-00001, Paper 26 (P.T.A.B. Mar. 5, 2013).....	5
<i>Harmonix Music Systems, Inc. v. Princeton Digital Image Corp,</i> IPR2015-00271, Paper 15 (P.T.A.B. June 2, 2015)	2
<i>Kyocera Corp. v. SoftView LLC,</i> IPR2013-0004, Paper 15 (P.T.A.B. Apr. 24, 2013)	2
<i>Maxlinear, Inc. v. Cresta Tech Corp.,</i> IPR2015-00594, Paper 35 (P.T.A.B. Jan. 27, 2016)	8
<i>Mylan Pharmaceuticals, Inc., v. Janssen Oncology, Inc.,</i> IPR2016-01332, Paper 21 (P.T.A.B. Jan. 10, 2017)	13, 14
<i>Samsung Electronics, Co. Ltd., v. Evolved Wireless, LLC,</i> IPR2017-00106, Paper 14 (P.T.A.B. Feb. 23, 2017).....	3
<i>Taro Pharms. U.S.A., Inc. v. Apotex Techs., Inc.,</i> IPR2017-01446, Paper 33 (P.T.A.B. May 11, 2018)	8
<i>Teva Pharmaceuticals USA Inc. v. Eli Lilly & Co.,</i> IPR2016-01340, Paper 8.....	12
<i>Unified Patents Inc. v. Finjan, Inc.,</i> IPR2019-01611, Paper 6 (P.T.A.B. Dec. 23, 2019)	9

Unified Patents, Inc. v. Personalweb Techs. et al.,
IPR2014-00702, Paper 12 (P.T.A.B. July 24, 2014)2, 4, 14

ZTE Corp. v. Adaptix, Inc.,
IPR2015-01184, Paper 10 (P.T.A.B. July 24, 2015)5, 7, 14, 15

35 U.S.C. §103(c)10

35 U.S.C. § 315(b)15

35 U.S.C. § 315(c)2

35 U.S.C. § 316(a)(11).....3

37 C.F.R. § 42.5(c)(2).....3

37 C.F.R. § 42.20(c).....2

37 C.F.R. § 42.51(b)(1)(iii).....5

37 C.F.R. § 42.1222

Sun Pharmaceutical Industries, Ltd. (“Sun”) seeks joinder with Mylan Pharmaceuticals Inc. (“Mylan”) in *Mylan Pharmaceuticals Inc. v. Merck Sharp & Dohme Corp.*, IPR2020-00040 (“Mylan IPR”). Paper 2. In separate proceedings, Teva Pharmaceuticals USA, Inc. and Watson Laboratories, Inc. (collectively, “Teva”), IPR2020-01045, Paper 4, and Dr. Reddy’s Laboratories, Inc. and Dr. Reddy’s Laboratories, Ltd. (collectively, “DRL”), IPR2020-01060, Paper 3, also seek to join the Mylan IPR.

Pursuant to the Board’s June 18, 2020 Order in IPR2020-01045, 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

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