

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

REGENERON PHARMACEUTICALS, INC.,

Petitioner,

v.

NOVARTIS PHARMA AG, NOVARTIS TECHNOLOGY, LLC,

NOVARTIS PHARMACEUTICALS CORPORATION,

Patent Owner.

Cases IRP2020-01317
and IRP2020-01318

Patent 9,220,631

HEARING BY TELECONFERENCE

October 29, 2020

Hearing by Teleconference, commencing at
11:00 a.m., on the above date, before the
Honorable Robert L. Kinder, the Honorable Erica A.
Franklin, and the Honorable Kristi L.R. Sawert,
preliminary panel, pursuant to the rules of the
Patent and Appeal Board.

1 APPEARANCES:
2
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4 Elizabeth Weiswasser, Esq.
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23
24 Also Present: Petra Scamborova and James Evans
25

1 This cause came on to be heard on
2 the 29th day of October, 2020, before the Patent
3 Trial and Appeal Board, preliminary panel, when
4 the following proceedings were had, to-wit:

5 THE COURT: Since there is a
6 court reporter, if the party that's
7 sponsoring the court reporter could
8 please file the transcript as an
9 exhibit, we would appreciate it.

10 To begin again, this is Judge
11 Kinder; and with me on the call are
12 Judges Franklin and Sawert.

13 As I mentioned, this panel is
14 preliminary until the Board actually
15 starts issuing orders or decisions in
16 the proceeding. So most likely, this
17 will be the panel, though.

18 Now, if we can get a roll call
19 for petitioner, please.

20 MR. DESAI: Yes. Good morning,
21 Your Honor. This is Anish Desai here
22 for petitioner. Also on the line is
23 Elizabeth Weiswasser and Brian Ferguson
24 from my firm. And we have two client
25 representatives, I think, also sitting

1 in, Petra Scamborova and James Evans.

2 THE COURT: Mr. Desai, who is
3 going to speak for petitioner today?

4 MR. DESAI: I will be.

5 THE COURT: All right. Thank
6 you. And since you do have client
7 representatives, I presume there is not
8 going to be any confidential information
9 discussed today, party-sensitive
10 information. But if that is incorrect,
11 please let me know now.

12 MR. DESAI: That is correct.

13 THE COURT: Okay. For the patent
14 owner?

15 MS. HOLLAND: Yes. Good morning.
16 This is Elizabeth Holland of Goodwin
17 Procter for patent owner. With me are
18 Bill James and Linnea Cipriano, also
19 from Goodwin Procter.

20 THE COURT: Ms. Holland, who is
21 going to speak today on behalf of patent
22 owner?

23 MS. HOLLAND: I will.

24 THE COURT: All right. Very
25 good. So I understand petitioner has

1 requested potentially additional
2 preliminary briefing. So I'll let
3 petitioner present their case.

4 Again, we don't want to get into
5 the merits on this particular phone
6 call. This is to determine whether
7 we're going to justify additional
8 briefing. Hopefully, both parties have
9 looked at some of our recent decisions
10 related to discretionary factors, and
11 our decisions to allow additional
12 briefing to address those or not to
13 allow.

14 So, petitioner, if you can open
15 it up, please.

16 MR. DESAI: Thank you, Your
17 Honor.

18 So Regeneron submits that there
19 is good cause for reply brief. I'll
20 address the 314 and the 325 issues
21 separately.

22 But before I get into those
23 issues, to the extent -- I don't know
24 that it will be, but if the issue
25 becomes about the amount of pages,

1 Regeneron is flexible on that point. I
2 think in our email exchanges with
3 Novartis, it didn't appear the issue was
4 page limits. But our understanding is
5 that they oppose the reply regardless of
6 how many pages.

7 We propose 20, because that was
8 how many pages they roughly dedicated to
9 the issue. But on further
10 consideration, we would be fine with 15
11 pages, roughly split 10 and 5, between
12 the 314 and the 325 issues.

13 Also, Novartis has not asked.
14 But if Novartis wants a sur-reply, we
15 don't have a problem with that. I
16 think, ultimately, we want the Board to
17 have the complete set of facts and the
18 perspective from both parties on these
19 issues.

20 Let me start with a reply on 314.
21 We've seen a number of decisions from
22 the Board granting replies on a 314
23 issue. I have like a list of eight at
24 least. I don't think I need to run down
25 those lists.

1 So it seems that it's fairly
2 common for replies to be given on 314
3 issues. Here, there is certainly good
4 cause.

5 Regeneron filed these IPRs five
6 days before the ITC case was instituted.
7 In these circumstances, if 314 precludes
8 PTAB review, then the PTAB review is
9 effectively foreclosed for patent
10 asserting ITC.

11 I think that's even more
12 problematic here where the petition is
13 based on prior art that was never
14 considered by the patent office.

15 As far as good cause goes,
16 Novartis hinged its argument to the
17 Board's decision in IPR2020-00772
18 involving FitBit. That case is heavily
19 cited in the patent owner preliminary
20 response, and that decision issued on
21 October 19, 2020.

22 So, obviously, our petition was
23 filed in July. We could not have
24 addressed and distinguished that
25 specific case. We should certainly be

1 permitted to discuss and explain why
2 that case doesn't control here.

3 THE COURT: Can you refresh me?
4 The specific case you're referring to,
5 the recent one, is there any
6 precedential or informative value on
7 that case?

8 MR. DESAI: I do not believe it
9 has been identified as precedential.

10 THE COURT: I just wanted to make
11 sure.

12 MR. DESAI: There are also
13 additional facts regarding the ITC case
14 that Regeneron should be allowed to put
15 in the record in a reply brief.

16 I think, first, Novartis's brief
17 says, quote, "The ITC investigation will
18 be tried in approximately nine months
19 and decided in approximately six
20 months," before any final written
21 decision here.

22 And, then again, in the brief,
23 the POPR, it says, quote, "The ITC is
24 set to issue a decision on validity of
25 the 631 patent by July 29, 2021."

1 To say that the ITC's decision
2 will issue on July 29th is just flat out
3 wrong. That is the date for the ALJ
4 initial determination, which is very
5 different than the Commission's
6 decision.

7 The Commission's decision is due
8 November 29, 2021, and the 60-day
9 precedential review period ends January
10 29, 2022. The Board's final decision on
11 these IPRs would fall within that
12 precedential review period on or about
13 January 22, 2022.

14 There is also a dispute at the
15 ITC regarding whether another company is
16 a necessary party to that investigation.
17 I can't get into the details of that
18 because of the ITC protective order.
19 But our reply brief will identify this
20 as an issue at a high level, as creating
21 uncertainty regarding the ITC schedule
22 and whether the ITC will actually reach
23 the merits.

24 This third party also has rights
25 in the patent that provide a reason why

1 the IPR should proceed irrespective of
2 the ITC case. So those are facts
3 that --

4 MS. HOLLAND: I'm sorry. To the
5 extent you're getting into confidential
6 information in front of your client, I
7 do object to that.

8 MR. DESAI: Elizabeth, that is
9 not confidential. That information is
10 in a public antitrust complaint that was
11 filed in the Southern District of New
12 York. So I am not --

13 MS. HOLLAND: I just want to make
14 sure you're not discussing any
15 particularities about the agreement
16 between patent owner and the third
17 party.

18 MR. DESAI: I was not intending
19 to.

20 THE COURT: Mr. Desai, go ahead
21 and continue.

22 MR. DESAI: So from our email
23 exchanges, to sort of summarize, those
24 are -- I think I've listed off what I
25 think are some facts and relevant

1 information that we should be permitted
2 to put in our reply.

3 From our email exchanges, I
4 understand Novartis's position that
5 Regeneron should not get a reply because
6 it should have addressed 314 in our
7 petition. I think they hinge this on
8 the Fintiv case, having been made
9 precedential before our petitions were
10 filed. We don't agree that that means
11 Regeneron should have predicted
12 Novartis's argument and addressed it in
13 the petition.

14 Prior to our petition being
15 filed, the Panel in IPR2018-01545
16 rejected a 314 argument based on an ITC
17 case, noting that the ITC does not have
18 authority to invalidate a patent and
19 also noting the different evidentiary
20 standards and burdens that apply.

21 There was only one other decision
22 from the Board we found prior to the
23 filing of our petitions, where the Board
24 denied a petition based on a 314 in view
25 of a pending ITC case. That was in

1 Bio-Rad, IPR2019-00568.

2 In the Bio-Rad case, the ITC case
3 was instituted on February 14, 2018; and
4 the IPR was filed 11 months later on
5 January 15, 2019, so right on the cusp
6 of the one-year statutory deadline.

7 That case bears no resemblance to
8 the Regeneron situation. There's really
9 no reason why Regeneron should have
10 predicted that Novartis would be making
11 this argument in this case. And I think
12 suggesting that a petitioner needs to
13 predict any and all 314/325 procedural
14 arguments and deal with those in the
15 petition is really contrary to the
16 statutory requirements for the content
17 of a petition.

18 That's 35 U.S.C. 312; the Board's
19 role in the content of that petition,
20 37 CFR 42.104; and the Trial Practice
21 Guide, none of which make it a
22 requirement for a petitioner to address
23 314 and 325 arguments in the petition.

24 I think I would say, for the
25 Board's benefit, briefing on these

1 procedural arguments will be far more
2 focused and issues will be properly
3 joined if petitioners are responding to
4 actual arguments made by patent owner
5 rather than trying to predict what a
6 patent owner might say.

7 So unless Your Honor has any
8 questions, I can turn to the 325 issue.

9 THE COURT: Give me one second,
10 Mr. Desai.

11 Okay. You can proceed to 325.

12 MR. DESAI: As I mentioned, we
13 can address the 325 issue in fewer
14 pages. And our petition already
15 explained how the prior art used in the
16 petition was not before the examiner,
17 and it's different from the art that was
18 before the examiner. We're not going to
19 rehash those points in our reply.

20 What we would like is for our
21 reply to address a handful of statements
22 by the patent owners that, in our view,
23 misrepresent the prosecution history.
24 Specifically, an example stating that
25 the examiner was aware of terminal

1 sterilization art and that terminal
2 sterilization was a focal point of the
3 examiner's argument during prosecution.

4 Now, I appreciate that we had the
5 opportunity to address the prosecution
6 history in our petitions, and we did at
7 pages 20 and 21 of our 1318 petition,
8 for example -- sorry, 1317 petition. We
9 pointed out how the examiner was focused
10 on silicone for three office actions.
11 In the fourth office action, the
12 examiner continued to reject and pointed
13 out that the patent owner was making an
14 argument based on terminal sterilization
15 that was not claimed. The claim was
16 amended to allow terminal sterilization,
17 and the examiner allowed the claim.

18 It was clearly missing from the
19 prosecution history as any terminal
20 sterilization history prior art. So
21 even though we do address the
22 prosecution history in our petition, we
23 couldn't predict that petitioner would
24 try to recast its prosecution history as
25 somehow involving terminal sterilization

1 prior art that was considered a focal
2 point of the examination.

3 While Your Honors certainly can
4 read the four office actions and the
5 notice of allowance and figure that out
6 on your own, it would certainly be
7 easier if you have briefing from both
8 sides.

9 I know the patent owner replied
10 to our email to the Board, asking for
11 the details on what we believe was
12 misrepresented so that they could
13 address those issues on this conference
14 call. But we don't believe that this
15 conference call is the right place for
16 these issues to be argued without the
17 benefit of a reply brief from Regeneron.
18 It makes far more sense for us to brief
19 these issues and let Your Honors make a
20 fully-informed decision.

21 Ultimately -- this is an
22 important issue -- this is a patent that
23 is being used by Novartis in an attempt
24 to limit availability of an important
25 drug that's relied on by millions of

1 patients suffering from eye diseases
2 that cause vision loss and blindness.

3 Let's put together a complete
4 record; allow us a reply brief; if
5 Novartis needs a sur-reply, we don't
6 oppose that; and let Your Honors make an
7 informed decision.

8 Thank you.

9 THE COURT: Mr. Desai, I
10 appreciate it. Before I have any
11 questions for you at the end or
12 follow-up after patent owner gets an
13 opportunity, we will bring those up at
14 the time.

15 Ms. Holland, if you can, present
16 your case and why the patent owner
17 opposes additional briefing.

18 MS. HOLLAND: Yes, I can. Thank
19 you.

20 I want to -- before I get into
21 the meat of what I want to say, I just
22 want to address the last point that
23 Mr. Desai made about this being an
24 important issue.

25 Patent owner also thinks it's an

1 important issue. That's why we brought
2 suit against Regeneron in the ITC. The
3 point here is not for this Panel right
4 now to decide how important the issues
5 are. The point is that the issue is
6 being decided by another forum as we
7 speak. That case is well under way. So
8 I just wanted to make that clear before
9 I started.

10 So let me get to the 314(c)
11 argument. Mr. Desai acknowledged that
12 the Fintiv decision did issue before
13 petitioner filed this petition. To be
14 clear on the dates, Fintiv decision
15 issued in March. And what's most
16 important, I would say, is that it
17 became precedential in May. And that
18 was two months before petitioner filed
19 its petition.

20 Now, Mr. Desai said, Well, how
21 were we supposed to anticipate that
22 patent owner was going to address this?
23 He points to an IPR that was a 2018 IPR
24 that went the other way.

25 But what's important is that the

1 decision in Fintiv became precedential
2 in May. At that point in time, what
3 came before it in terms of
4 nonprecedential, noninformative
5 decisions really doesn't bear on the
6 issue.

7 As of May, petitioner should have
8 known about the Fintiv decision, either
9 knew or should have known about the
10 decision, about its precedential value,
11 and also understood that the decision
12 explicitly addresses the situation we're
13 in now, which is the possibility of the
14 Board exercising its discretion not to
15 institute based on parallel ITC
16 proceedings. That was very clear in the
17 Fintiv position.

18 As of the time that petitioner
19 filed this petition -- I know it says
20 that it was three days before -- there
21 was not really any doubt at that point
22 in time that it was going to be
23 instituted. But, regardless, petitioner
24 had the opportunity to take some number
25 of words in its petition to address this

1 issue.

2 And it's not a matter of
3 responding to our argument. There are
4 several factors. Those factors could
5 have been addressed from the
6 petitioner's point of view in the
7 petition as filed.

8 There was obviously a strategic
9 position here not to take up the words
10 in the petition to address Fintiv,
11 which, as I said, was a precedential
12 opinion directly applicable to the
13 matter before the panel today.

14 This is, in our view, essentially
15 a way to backdoor in this argument
16 without expanding the word count in
17 their petition but expanding the word
18 count by addressing it in a reply.

19 I understand that now Mr. Desai
20 is saying that they don't really mean
21 they want 20 pages, but I think that's
22 an indication that this really is a way
23 of addressing an issue that should have
24 been addressed in its petition.

25 Mr. Desai also said that the

1 reason they wanted 20 pages is because
2 that's the number of pages that patent
3 owners took in their preliminary
4 response on this issue. But, again, I
5 want to note that that was a decision on
6 patent owners' part.

7 We also had a limited number of
8 words, and we chose to use some of those
9 limited number of words on this issue
10 rather than making more extensive
11 arguments on the other issue.

12 So this is all a choice of how to
13 use word count. We chose to use our
14 word count in that particular way. The
15 petitioner chose not to address it in
16 his petition, even though it was or
17 should have well been aware of Fintiv
18 and Fintiv's discussion and specifically
19 directing the issue of parallel ITC
20 proceedings.

21 THE COURT: Ms. Holland, this is
22 Judge Kinder again. Can I interrupt you
23 real quick?

24 MS. HOLLAND: Sure.

25 THE COURT: Since that Fintiv

1 decision came out, we have a very
2 limited number, I think, of cases that
3 address it at the preliminary phase,
4 because it takes about six months for us
5 to start issuing initial decisions,
6 preliminary initial decisions.

7 Are there any other initial
8 decisions from the Board where we've
9 refused to allow petitioner a response
10 when they didn't address Fintiv up
11 front?

12 MS. HOLLAND: Since the time that
13 it has become precedential?

14 THE COURT: Correct. I mean, it
15 would be a pretty limited window, three
16 or four months, I believe, that we've
17 been issuing initial decisions after
18 petitions were filed after the Fintiv
19 decision.

20 MS. HOLLAND: Let me ask my
21 colleague, Ms. Cipriano, if she's aware
22 of any cases like that.

23 MS. CIPRIANO: No, Your Honor,
24 I'm not aware of any.

25 THE COURT: I think that's

1 something that's important for your
2 position, if there were other cases
3 where we've done what you're requesting
4 to not allow additional briefing.

5 But go ahead. Continue, please,
6 Ms. Holland.

7 MS. HOLLAND: Thank you very
8 much.

9 So I understand what you're
10 saying. And, again, I want to stress
11 that it is very -- it is, you know,
12 several months since the Fintiv
13 decision, that period of time. But I
14 think the critical thing is that it was
15 two months prior to filing the petition
16 here. So there's no reason why it
17 shouldn't have been addressed at least
18 to some extent in this petition, and it
19 wasn't.

20 And to take up words now, you
21 know, 20 pages or even 15 pages, on the
22 issue, seems unfair, given that it is an
23 issue that should have been addressed.

24 THE COURT: Okay.

25 MS. HOLLAND: Let me just say a

1 few more things that -- address a couple
2 of more things that Mr. Desai brought up
3 in his argument.

4 First of all, the facts about the
5 ITC case, if you look at almost every
6 Fintiv decision or decision even
7 preceding Fintiv where the discretion
8 was exercised to deny institution based
9 on a parallel proceeding, you'll see
10 that the trial of the matter is the
11 decisive time point that's looked at.

12 So we've emphasized in our papers
13 that the ITC case is going to be tried
14 nine months prior to any final written
15 decision here. It will be decided, at
16 least by initial determination, as of
17 July 29th.

18 And the only time frame that will
19 not have been satisfied, as Mr. Desai
20 conceded on this call, would be the
21 60-day precedential review. And that is
22 a formal kind of review that is not
23 often or almost never used to overturn a
24 decision of the ITC. And it would not
25 be something that affected the merits of

1 the patent decision that the -- in any
2 event.

3 So the merits of the dispute
4 between the parties on the validity of
5 the 631 patent will be finally decided
6 prior to the Board's final written
7 decision, if institution should be
8 granted.

9 The other point that Mr. Desai
10 made is -- and I didn't know we were
11 going to be getting into this on the
12 call today, but I want to address it
13 just because it was brought up.

14 This issue about another company
15 being a necessary party in the ITC case,
16 I don't want to discuss the merits here.
17 I just want to say that the motion
18 hasn't been filed. We think it is a
19 very unmeritorious motion that is not
20 going to be granted, and we don't
21 believe that the remote possibility that
22 something happens like that should in
23 any way affect the decision here with
24 respect to institution because, as of
25 now, there's absolutely no indication

1 that there will be any delay in the
2 proceedings or trial of the proceedings.

3 Unless there are any questions, I
4 can move to the 325(d) point.

5 THE COURT: Ms. Holland, this is
6 Judge Kinder. Just give me one minute.

7 Okay. Go ahead and proceed,
8 Ms. Holland -- thank you -- with the
9 325(d) issue.

10 MS. HOLLAND: Thank you. I want
11 to start off by saying that the email
12 that was sent to the Board had a serious
13 accusation about misrepresentations. I
14 didn't believe that that word was used
15 purposefully. I thought it was just a
16 poor word choice, but it was used again
17 on the call today.

18 I want to point out that words
19 have meaning. We were really taken
20 aback when we saw Mr. Desai's email
21 using that word. As he said, we had
22 asked him to list with particularity
23 what those misrepresentations were.

24 We got a list back that
25 essentially showed that it was a simple

1 disagreement with our argument, that
2 they interpret the prosecution history
3 one way, the patent one way, and we
4 interpret it another way perhaps.

5 But I would say that everything
6 in our papers was backed up by citations
7 to the prosecution history and to the
8 patent specifications. So, certainly,
9 there's nothing there that requires more
10 briefing.

11 It's an issue that Mr. Desai said
12 the petitioner knew was a dispute in
13 terms of terminal sterilization. That's
14 one of the arguments that they make in
15 their petition. So it should have been
16 clear that we would have been addressing
17 that accusation in response.

18 I would say that the fact that
19 terminal sterilization was in the prior
20 art is right in the specification of the
21 patent. I don't think there's any
22 dispute on that. So to say that we
23 somehow misrepresented anything by
24 saying the Board knew that terminal
25 sterilization -- the Examiner knew that

1 terminal sterilization was in the prior
2 art is just -- it's not untenable on its
3 face. I mean, it's right there in the
4 specifications.

5 So we don't see any reason for
6 giving more word count and word space to
7 this argument right now for petitioner.
8 It is certainly something that is an
9 issue that was the crux of their
10 petition. We responded to it, saying
11 that it was cumulative, because it was;
12 and there's nothing that can be in any
13 way, shape, or form construed as a
14 misrepresentation in our papers.

15 So I can address any questions on
16 325(d).

17 THE COURT: Ms. Holland, thank
18 you. I was just conferring with the
19 panel.

20 I want to give Mr. Desai a chance
21 to respond really quick just to the
22 things you brought up, if there's any
23 response needed. And then if he raises
24 anything new, I'll allow you a chance to
25 address it.

1 Mr. Desai, do you have any
2 further response?

3 MR. DESAI: Just a few quick
4 points.

5 We've looked, and we're not aware
6 of a case where PTAB disallowed a reply
7 brief on a 314 issue. We just haven't
8 seen it. Even in the FitBit case, they
9 relied on -- it's confusing, because
10 there's Fintiv and FitBit. FitBit is
11 the October 19, 2020, decision that
12 Novartis relied on, and the petitioner
13 got a reply.

14 We've seen PTAB decisions
15 allowing 314 and 325 replies even where
16 the petitioner addresses those issues in
17 the petition. So whether or not you
18 address it in the petition is not the
19 determinative factor. It's whether
20 there's good cause. And here, there is.
21 I went through those issues.

22 And then this argument about the
23 word count, I mean, the requirements for
24 a petition are set by statute and rule,
25 35 U.S.C. 312, 37 C.F.R. 42.104. None

1 of those require addressing 314 and 325
2 issues, and neither does the Trial
3 Practice Guide.

4 So I think if the Board is now
5 going to set a requirement that
6 petitions have to address 314 and 325
7 issues, that's something that should
8 probably go in the Trial Practice Guide.
9 But it's not there right now. So I
10 think there's tons of precedent here for
11 giving a reply.

12 And then on the 325 issue, let me
13 just say the misrepresentation here --
14 that word was used properly, because the
15 issue here is, was their terminal
16 sterilization art disclosed to the
17 Examiner? That's the language that the
18 patent owner used in their POPR, "prior
19 art." And the answer is there was not.
20 And we would like that to be made clear
21 in our reply brief.

22 THE COURT: Mr. Desai, I
23 appreciate your response. I don't
24 necessarily mean we agree with you on
25 that response.

1 You know, there is certainly -- I
2 certainly understand your point about it
3 not being in the rules or statute. But,
4 you know, you have to consider granting
5 institution is completely discretionary
6 on our part. So when we're talking
7 about discretion, then we have a
8 precedential decision out there in
9 Fintiv. The patent owner does raise
10 some very valid points, that that should
11 be addressed up front. But I'm not
12 going to go into that any further.

13 You also raise some questions
14 about why we haven't put that guidance
15 out, and we certainly understand your
16 position on that.

17 So, Ms. Holland, do you have any
18 response to Mr.Desai and just the points
19 he made?

20 MS. HOLLAND: Yeah. I don't
21 agree with the kind of global point of,
22 you know, if we really had to address
23 these issues in our petition, that we
24 should have known about it. I mean,
25 there are plenty of decisions that I

1 can't cite them chapter and verse right
2 now -- there are plenty of decisions
3 that say you need to anticipate things
4 that should be reasonably anticipated in
5 your petition. And one issue that
6 should have been reasonably anticipated
7 here was Fintiv.

8 On the misrepresentation point, I
9 don't want to get into that any more. I
10 think it's a grossly improper use of the
11 word, when you have a disagreement with
12 someone's argument, to make that
13 accusation. But I'll leave it there.

14 THE COURT: All right. This is
15 Judge Kinder again. Let me confer with
16 the Panel real quick, and then we'll let
17 you know if we have any other questions.

18 (Panel Discussion off-the-audio
19 record.)

20 THE COURT: All right. We thank
21 you both for your time today. You've
22 certainly laid out the issues well
23 enough at this point for us to decide
24 them, and the issue being whether or not
25 we will grant additional briefing by the

1 petitioner.

2 Ms. Holland, a real quick
3 question: If we do go that route and
4 grant petitioner any extra briefing,
5 would you also want the same number of
6 pages for a response?

7 MS. HOLLAND: Yes, we would.
8 Thank you.

9 THE COURT: All right. There are
10 no other questions at this time from us.
11 Petitioner, anything else?

12 MR. DESAI: No, Your Honor.
13 Thank you.

14 THE COURT: Ms. Holland, anything
15 else?

16 MS. HOLLAND: No, Your Honor.
17 Thank you very much.

18 THE COURT: We appreciate your
19 time, and we'll take this under
20 consideration. The Panel is going to
21 confer on this one. So we're not going
22 to issue an order verbally.

23 But we would like you to file the
24 transcript within a few days. If both
25 parties can agree on the transcript and

1 review it, that makes life easier. And
2 then the party that had it taken, just
3 file it as an exhibit.

4 And we are now adjourned. Thank
5 you.

6 MS. HOLLAND: Thank you very
7 much.

8 MR. DESAI: Thank you.

9 (Hearing adjourned 11:36 a.m.)
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1 CERTIFICATE OF COURT REPORTER

2 I, Marilyn Morgan, Licensed Court
3 Reporter and Notary Public for the State of
4 Tennessee, do certify that the above hearing was
5 reported by me and that the foregoing transcript
6 is a true and accurate record to the best of my
7 knowledge, skills, and ability.

8 I further certify that I am not an
9 employee of counsel or any of the parties, nor a
10 relative or employee of any attorney or counsel
11 connected with the action, nor financially
12 interested in the action. I further certify that
13 I am duly licensed by the Tennessee Board of Court
14 Reporting as a Licensed Court Reporter as
15 evidenced by the LCR number and expiration date
16 following my name below.

17 Subscribed and sworn to before me when
18 taken, this 29th day of October, 2020.

19

20

21

22


23

24

25

Marilyn Morgan

MARILYN MORGAN, LCR #235



Expiration Date: 6/30/22

Notary Public, State of Tennessee

Commission expires: 5/15/21

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