

EXHIBIT 3

From: Trials <Trials@USPTO.GOV>
Sent: Friday, July 23, 2021 4:16 PM
To: Jonathan.Strang@lw.com; Johnson, Matthew W.; Trials
Cc: Marlott, John A.; Cochran, David B.; Kukkonen, Carl A.; Mishaga, Stephanie M.; Clement.Naples@lw.com; Thomas.Yeh@lw.com; SurendraKumar.Ravula@lw.com
Subject: RE: IPR2021-00585; -00586 – Assertion of Sotera-type Stipulations

**** External mail ****

Counsel,

We authorize Petitioner to file the stipulation into the records of IPR2021-00585 and IPR2021-00586 only after the stipulation has been filed in the district court. We do not authorize additional briefing from either party at this time.

Regards,

Andrew Kellogg,
Supervisory Paralegal
Patent Trial and Appeal Board
USPTO
andrew.kellogg@uspto.gov
(571)272-7822

From: Jonathan.Strang@lw.com <Jonathan.Strang@lw.com>
Sent: Friday, July 23, 2021 12:07 PM
To: mwjohnson@JonesDay.com; Trials <Trials@USPTO.GOV>
Cc: jamarlott@JonesDay.com; dcochran@JonesDay.com; ckukkonen@jonesday.com; smishaga@jonesday.com; Clement.Naples@lw.com; Thomas.Yeh@lw.com; SurendraKumar.Ravula@lw.com
Subject: RE: IPR2021-00585; -00586 – Assertion of Sotera-type Stipulations

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Dear Board,

Patent Owner opposes Petitioner's belated request to enter any stipulation into the administrative record.

If the Board grants leave to enter the stipulation, Petitioner is not entitled to any further briefing. It is too late for the usual surreply and sur-surreply sequence. However, Patent Owner should be given two pages of briefing to address the negligible effect Petitioner's belated stipulation has on Fintiv Factor 4 (overlap).

Patent Owner is available for a conference call on:

- Monday, July 26, from 1 pm to 3:30 pm
- Tuesday, July 27 from 9 am to 2 pm
- Thursday, July 29 during normal business hours
- Friday, July 30 during normal business hours

Very Respectfully,

Jonathan Strang
Counsel for Patent Owner

Sent with BlackBerry Work (www.blackberry.com)

From: "Johnson, Matthew W." <mwjohanson@JonesDay.com>

Sent: Jul 23, 2021 11:39

To: trials@uspto.gov

Cc: "Marlott, John A." <jamarlott@JonesDay.com>; "Cochran, David B." <dcochran@JonesDay.com>; "Kukkonen, Carl A." <ckukkonen@jonesday.com>; "Mishaga, Stephanie M." <smishaga@jonesday.com>; "Strang, Jonathan (DC)" <Jonathan.Strang@lw.com>; "Naples, Clement (NY)" <Clement.Naples@lw.com>; "Yeh, Thomas (LA)" <Thomas.Yeh@lw.com>; "Ravula, Kumar (CH)" <SurendraKumar.Ravula@lw.com>

Subject: IPR2021-00585; -00586 – Assertion of Sotera-type Stipulations

Dear Honorable Judges,

Petitioner R.J. Reynolds stipulates, in accordance with the Board's precedential *Sotera* case (IPR2020-01019, Paper 12), that if trial is instituted in the above noted IPRs, none of the Petitioner or other noted Real Parties in Interest will pursue in district court litigation any ground raised or that could have been reasonably raised in the above-noted IPRs such that there will be no overlap of invalidity issues between the parallel district court proceeding and these *inter partes* reviews.

Petitioner requests authorization to memorialize this stipulation in the PTAB files in these matters to make them of record. Petitioner has conferred with Patent Owner and they oppose this request to enter the stipulation into the file. Regardless, the stipulation has been made and will be similarly memorialized in the district court proceeding in the same fashion as Patent Owner's stipulations in other matters (e.g., IPR2020-00921) in the dispute between the parties.

Petitioner is available to discuss at the Panel's convenience.

Best Regards,

Matthew Johnson

Partner

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