

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.

Petitioner

v.

BOEHRINGER INGELHEIM INTERNATIONAL GMBH

Patent Owner

Case No.: IPR2016-01564

Patent No.: 8,846,695

PATENT OWNER'S REQUEST FOR ADVERSE JUDGMENT

UNDER 37 C.F.R. § 42.73(b)(2)

The Board instituted review in the above-captioned proceeding for claims 1-4 of U.S. Patent No. 8,846,695. Paper 17 (Institution Decision) at 11-12.

“A party may request judgment against itself at any time during a proceeding.” 37 C.F.R. § 42.73(b)(2). Accordingly, Patent Owner Boehringer Ingelheim International GMBH respectfully requests judgment against itself and asks that the Board cancel the instituted claims (claims 1-4) and enter adverse judgment against it. Patent Owner's cancellation of the instituted claims is not an admission regarding the merits of Petitioners' position that the claims are invalid and/or that the asserted references taken alone, or in combination, teach or suggest all the limitations of the claims.

In view of the requested cancellation of the claims of the '695 patent upon which trial was instituted, Patent Owner respectfully requests that the PTAB enter an adverse judgment against Patent Owner and terminate this proceeding pursuant to 37 C.F.R. § 42.73(b)(2).

Date: April 14, 2017

Respectfully submitted,

/s/ Leora Ben-Ami

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **PATENT OWNER'S REQUEST FOR ADVERSE JUDGMENT UNDER 37 C.F.R. § 42.73(b)(2)** was served on April 14, 2017, via email to counsel for Petitioners at the following:

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