

UNITED STATES PATENT AND TRADEMARK OFFICE  
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BEFORE THE PATENT TRIAL AND APPEAL BOARD  
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MALLINCKRODT PHARMACEUTICALS IRELAND LIMITED,  
Petitioner,

v.

BIOVIE, INC.,  
Patent Owner.

\_\_\_\_\_  
Case IPR2018-00974  
Patent 9,655,945 B2  
\_\_\_\_\_

Before MICHELLE N. ANKENBRAND, *Acting Vice Chief Administrative Patent Judge*, ERICA A. FRANKLIN, and KRISTI L. R. SAWERT, *Administrative Patent Judges*.

SAWERT, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceeding  
*37 C.F.R. § 42.5*

On October 10, 2019, Patent Owner sent an email to the Board requesting authorization to “submit a brief statement regarding a recent Federal Circuit decision, namely, the *OSI Pharm., LLC v. Apotex Inc.*, No. 2018-1925, 2019 WL 4892078 (Fed. Cir. Oct. 4, 2019) case, which Patent Owner believes is relevant to this proceeding.” Ex. 3002. In its email, Patent Owner “proposes that its statement regarding the case law be limited to 350 words and that Petitioner can submit a response also limited to 350 words.” *Id.* According to the email, Petitioner does not oppose Patent Owner’s request.

Patent Owner’s request is *granted*. In view of the November 14, 2019, statutory deadline for issuing a Final Written Decision in this proceeding, Patent Owner shall file its 350-word submission no later than 5pm ET, on October 16, 2019, and Petitioner shall file its 350-word response no later than 5pm ET, on October 21, 2019. No reply is authorized.

It is:

ORDERED that Patent Owner is authorized to submit a case law statement on *OSI Pharm., LLC v. Apotex Inc.*, No. 2018-1925, 2019 WL 4892078 (Fed. Cir. Oct. 4, 2019);

FURTHER ORDERED that Patent Owner’s submission is limited to 350 words, and is due no later than 5pm ET, October 16, 2019;

FURTHER ORDERED that Petitioner is authorized to file a response to Patent Owner’s submission; and

FURTHER ORDERED that Petitioner’s submission is limited to 350 words, and is due no later than 5pm ET, October 21, 2019.

IPR2018-00974  
Patent 9,655,945 B2

PETITIONER:

James P. Murphy  
Jonathan Kirley  
Kevin J. Davis  
POLSINELLI PC  
jpmurphy@polsinelli.com  
mkirley@polsinelli.com  
kdavis@polsinelli.com

PATENT OWNER:

Patrick Gattari  
Nicole Grimm  
Grantland Drutchas  
MCDONNELL BOEHNEN HULBERT  
& BERGHOFF LLP  
gattari@mbhb.com  
grimm@mbhb.com  
drutchas@mbhb.com