

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN LABORATORIES LTD.
Petitioner,

v.

JANSSEN PHARMACEUTICA NV,
Patent Owner.

IPR 2020-00440
Patent 9,439,906

Before JOHN G. NEW, KRISTINA M. KALAN, and ROBERT A.
POLLOCK, *Administrative Patent Judges*.

PER CURIAM

ORDER
Granting Patent Owner's Motion to Extend Deadline
37 C.F.R. § 42.5

Patent Owner Janssen Pharmaceuticals N.V. (“Janssen”) has requested a 30-day extension of the deadline for filing its Preliminary Response to Petitioner Mylan Laboratories, Ltd.’s (“Mylan”) Petition to Institute *inter partes* review of Mylan’s US 9,439,906 (Paper 3). Janssen has indicated to the Board that Mylan does not oppose Janssen’s request.

Pursuant to the authority under section 12004(a) of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, Stat. (2020) (“CARES Act”), the Board issued the Notice of Waiver of Patent-Related Timing Deadlines under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act Notice”).

According to the CARES Act Notice, the Board “shall provide a 30-day extension of time” for a patent owner response in a trial proceeding under 37 C.F.R. § 42.107 upon “affirming that a filing due between, and inclusive of both, March 27, 2020 and April 30, 2020 was or may be delayed due to the COVID-19 outbreak.” CARES Act Notice 3. A delay “due to the COVID-19 outbreak” is defined as occurring “if a . . . patent owner . . . was personally affected by the COVID-19 outbreak, including, without limitation, through office closures, cash flow interruptions, inaccessibility of files or other materials, travel delays, personal or family illness, or similar circumstances, such that the outbreak materially interfered with timely filing.” *Id.* at 2. The filing dates have subsequently been extended by the USPTO to on or before June 1, 2020. See USPTO, *Notice of Extended Waiver of Patent-Related Timing Deadlines under the Coronavirus Aid, Relief, and Economic Security Act and Other Relief Available to Patent Applicants and Patentees*, April 28, 2020 available at:

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<https://www.uspto.gov/sites/default/files/documents/Patents-Notice-CARES-Act-2020-04.pdf> (last visited May 11, 2020).

Janssen's Preliminary Response is presently due on May 21, 2020. Janssen represents that all of its attorneys in this proceeding are located in the New York City and Philadelphia areas and that the COVID-19 outbreak has materially interfered with their preparation of the preliminary response in this proceeding, at least because of office closures at both locations and the ensuing disruptions associated with those closures. Janssen therefore requests a 30-day extension of the due date for filing its Preliminary Response.

We grant Janssen's request.

ORDER

It is therefore,

ORDERED that the due date for Janssen's Preliminary Response is extended to on or before June 20, 2020.

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PETITIONER:

Jitendra Malik, Ph.D.
Guylaine Hache, Ph.D.
Alissa M. Pacchioli
Lance Soderstrom
Katten Muchin Rosenman LLP
550 S. Tryon Street, Suite 2900
Charlotte, NC 28202-4213
jitty.malik@katten.com
alissa.pacchioli@katten.com
lance.soderstrom@katten.com

PATENT OWNER:

Barbara L. Mullin
Andrew D. Cohen
Joong Youn (Jay) Cho
PATTERSON BELKNAP WEBB & TYLER LLP
1133 Avenue of the Americas
New York, NY 10036
Tel.: (212) 336-2468
Fax: (212) 336-1231
bmullin@pbwt.com
acohen@pbwt.com
jcho@pbwt.com

Ruben H. Munoz
AKIN GUMP STRAUSS HAUER & FELD LLP
Two Commerce Square
2001 Market Street, Suite 4100
Philadelphia, PA 19103
Tel.: (215) 965-1263
Fax: (215) 965-1210
rmunoz@akingump.com