

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____)
JANSSEN PHARMACEUTICALS,)
INC., and JANSSEN)
PHARMACEUTICA NV,)
Patent Owner,) IPR2020-00440
vs.)
MYLAN LABORATORIES INC.,)
Petitioner.)
_____)

REPORT OF PROCEEDINGS

JUNE 30, 2020

REPORT OF PROCEEDINGS via teleconference of
the above-entitled cause before the Honorable John
G. New, Robert A. Pollock, and Kristina M. Kalan,
Judges of said Panel, on the 30th day of June 2020
at the hour of 1:00 p.m.

Certification No. 084-003435

1 APPEARANCES:

2

KATTEN MUCHIN ROSENMAN LLP
By: MR. JITENDRA MALIK
550 South Tyron Street, Suite 2900
Charlotte, North Carolina 28202-4213
704.344.3185
jitty.malik@katten.com

6

-and-

7

KATTEN MUCHIN ROSENMAN LLP
By: MS. GUYLAINE HACHE
525 West Monroe Street
Chicago, Illinois 60606
312.092.5000
guylaine.hache@katten.com

10

appeared on behalf of the
Petitioner;

11

12

PATTERSON BELKNAP WEBB AND TYLER LLP
By: MR. ANDREW D. COHEN
MS. BARBARA L. MULLIN
1133 Avenue of the Americas
New York, NY 10036-6710
212.336.2605
acohen@pbwt.com
bmullin@pbwt.com

16

17

-and-

18

AKIN GUMP STRAUSS HAUER & FELD LLP
By: MR. RUBEN MUNOZ
Two Commerce Square
2001 Market Street, Suite 4100
Philadelphia, Pennsylvania 19103

20

21

appeared on behalf of the
Patent Owner.

22

23

Also Present:

24

Ms. Jennifer Reda, Janssen In-House Counsel

25

(All parties appeared via teleconference.)

1 JUDGE NEW: Good afternoon, everybody. Are
2 counsel for both parties present?

3 MR. MALIK: Yes, Your Honor.

4 JUDGE NEW: Great. My name is Judge John
5 New. I'm joined here by my colleagues, Judge Robert
6 Pollock and Judge Kristina Kalan.

7 Could parties or counsel for both parties
8 please identify themselves for the record.

9 MR. MALIK: Your Honor, this is Jitendra
10 Malik, lead counsel for Mylan. With me is backup
11 counsel, Guylaine Hache.

12 MR. COHEN: And then for Patent Owner, this
13 is Andrew Cohen from Patterson Belknap, backup
14 counsel. With me is Barbara Mullin from Patterson
15 Belknap, lead counsel; Ruben Munoz from Akin Gump,
16 backup counsel and listening in is Jen Reda,
17 in-house counsel for the Patent Owner.

18 JUDGE NEW: Great. Thank you. Welcome
19 everybody. Good afternoon. We have a couple of
20 issues before us today as I understand correctly
21 from the email that I received. The first is the
22 easy one, so let's do that one first. And that is
23 that counsel for Petitioner has requested additional
24 briefing on the 314(a), 325(d) issue with specific
25 reference to Apple factor 6 and requested a one-week

1 deadline for a five-page reply.

2 Patent Owner does not oppose that as long as
3 they can grant -- they can file a similar one-week,
4 following week five-page surreply. Do I understand
5 that correctly?

6 MR. MALIK: Your Honor, I think generally
7 yes. I think what the request is is to address all
8 the Apple factors. The reason we specifically noted
9 325 because Janssen's discussion of 325 -- normally
10 325 is a stand-alone section separate from 314, but
11 they incorporated 325 in connection with Apple
12 factor 6, so we just wanted to notify the PTAB why
13 we were talking about 325 when if you look at their
14 table of contents, you don't see a specific section
15 for 325.

16 So the request is for actually ten pages for
17 325 -- well, 314, Apple factors 1 through 6, which
18 would incorporate a discussion of 325. And to the
19 extent the PTAB is inclined to discuss also what I
20 call the umbrella term "inventorship," ten pages
21 total across the board.

22 JUDGE NEW: We'll get to inventorship in a
23 moment, but this is the unopposed portion of this,
24 right, is dealing with the Apple factors. And you
25 wanted five pages for that in one week and we'll

1 deal with the inventorship next.

2 MR. MALIK: I think what we're asking for is
3 what I envision is us spending about -- if we get
4 ten pages, us spending seven pages on the Apple
5 factors and about three on the inventorship issues,
6 the vast majority. So we're asking for a little bit
7 more than five, not necessarily -- not that much
8 more, but just a couple more pages just so we can
9 address those issues.

10 And I'll note that that request for, you
11 know, around about ten pages is typical for 314, 325
12 and I can provide more cases, IPR cases, where a
13 similar request was granted. In fact, in one of the
14 Mylan cases it was granted.

15 JUDGE NEW: All right. So I understand
16 that -- Mr. Cohen, that Janssen doesn't oppose
17 briefing on that particular issue, additional
18 briefing.

19 MR. COHEN: Yeah. This is Andrew. That is
20 correct, provided it's limited to the Apple factors.
21 We recognize that the Petitioner didn't have the
22 benefit of the Apple decision when it filed its
23 petition. So we are okay with that.

24 We don't view it as an opportunity to -- for
25 a wide-ranging reply to address all the

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.