

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TEVA PHARMACEUTICALS USA, INC. AND WATSON  
LABORATORIES, INC.  
Petitioner,

v.

MERCK SHARP & DOHME CORP.,  
Patent Owner.

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IPR2020-01045 (Patent 7,326,708 B2)

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Before SHERIDAN K. SNEDDEN, ROBERT A. POLLLOCK, and  
TIMOTHY G. MAJORS, *Administrative Patent Judges*.

MAJORS, *Administrative Patent Judge*.

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

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On June 17, 2020, the parties conferred with the Board on Petitioner Teva's motion for joinder. Paper 4. The conference was attended by the panel and counsel for Teva, Merck (Patent Owner), and Mylan (Petitioner in IPR2020-00040). During the call, Patent Owner's counsel indicated that it was reserving its rights as to whether it intended to oppose Petitioner Teva's motion, and stated that Patent Owner was seeking further information from Mylan and Teva regarding the scope of Teva's participation if it was joined in IPR2020-00040.

The parties' counsel further informed the panel that at least two additional petitions and motions for joinder were recently filed by additional challengers to the patent that is the subject of instituted proceedings IPR2020-00040 and the petition in IPR2020-01045. Petitioners in those other matters have not yet conferred with the Board concerning such other petitions and motions for joinder.

To help narrow potentially disputed issues related to Teva's motion for joinder, the Board encouraged counsel for Mylan and Teva to confer (and, if possible, to also confer with the Petitioners in the other two recently-filed cases). Petitioners' counsel should then confer with counsel for Merck to determine whether issues related to the motion(s) for joinder remain in dispute.

The Board asked that Teva's counsel update the Board via email by June 23, 2020, on whether such discussions between the parties have taken place.

Absent further order of the Board, the deadlines for any opposition or reply to Teva's motion for joinder are the default filing times according to our rules. 37 C.F.R. § 42.25. We will, however, consider a request modify the briefing schedule as appropriate. Petitioner Mylan is not permitted to

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file any responsive paper in IPR2020-00040 on Teva's motion absent prior Board authorization.

SO ORDERED.

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