

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

DR. REDDY'S LABORATORIES INC., and  
DR. REDDY'S LABORATORIES LTD.,  
Petitioners,

v.

MERCK SHARP & DOHME CORP.,  
Patent Owner.

---

Case IPR2020-01060  
U.S. Patent 7,326,708

---

**PATENT OWNER'S OPPOSITION TO MOTION FOR JOINDER**

**TABLE OF CONTENTS**

I. LEGAL STANDARD .....2

II. ARGUMENT .....3

    A. Joinder Necessitates an Order Providing for an Orderly Party  
    Discovery Process. ....4

    B. Joinder Necessitates an Adjustment to the Schedule. ....9

    C. Joinder Requires that Joinder Petitioners Serve the Role of True  
    Understudies. ....11

    D. In the Absence of Needed Safeguards, Merck Opposes Joinder. ....13

**TABLE OF AUTHORITIES**

<i>Aurobindo Pharma U.S.A. Inc. v. Astrazeneca AB,</i> IPR2016-01117, Paper 12 (P.T.A.B. Oct. 21, 2016) .....	12
<i>Central Security Grp. – Nationwide, Inc., v. Ubiquitous Connectivity, LP,</i> IPR2019-01610, Paper 12 (P.T.A.B. Feb. 26, 2020).....	13
<i>Clear-vu Lighting LLC v. University of Strathclyde,</i> IPR2019-00588, Paper 14 (P.T.A.B. Apr. 19, 2019) .....	9
<i>Dr. Reddy’s v. Horizon, Inc.,</i> IPR2018-01341, Paper 21 (P.T.A.B. Apr. 19, 2019) .....	12, 13
<i>Ericsson Inc., v. Uniloc</i> 2017 LLC, IPR2020-00376, Paper 16 (P.T.A.B. May 22, 2020).....	12
<i>Garmin International, Inc. v. Cuozzo Speed Techs, LLC,</i> IPR2012-00001, Paper 26 (P.T.A.B. Mar. 5, 2013).....	5
<i>Harmonix Music Systems, Inc. v. Princeton Digital Image Corp,</i> IPR2015-00271, Paper 15 (P.T.A.B. June 2, 2015) .....	2
<i>Kyocera Corp. v. SoftView LLC,</i> IPR2013-0004, Paper 15 (P.T.A.B. Apr. 24, 2013) .....	2
<i>Maxlinear, Inc. v. Cresta Tech Corp.,</i> IPR2015-00594, Paper 35 (P.T.A.B. Jan. 27, 2016) .....	8
<i>Mylan Pharmaceuticals, Inc., v. Janssen Oncology, Inc.,</i> IPR2016-01332, Paper 21 (P.T.A.B. Jan. 10, 2017) .....	13, 14
<i>Samsung Electronics, Co. Ltd., v. Evolved Wireless, LLC,</i> IPR2017-00106, Paper 14 (P.T.A.B. Feb. 23, 2017).....	3
<i>Taro Pharms. U.S.A., Inc. v. Apotex Techs., Inc.,</i> IPR2017-01446, Paper 33 (P.T.A.B. May 11, 2018) .....	8
<i>Teva Pharmaceuticals USA Inc. v. Eli Lilly &amp; Co.,</i> IPR2016-01340, Paper 8.....	12
<i>Unified Patents Inc. v. Finjan, Inc.,</i> IPR2019-01611, Paper 6 (P.T.A.B. Dec. 23, 2019) .....	9

*Unified Patents, Inc. v. Personalweb Techs. et al.*,  
IPR2014-00702, Paper 12 (P.T.A.B. July 24, 2014) .....2, 4, 14

*ZTE Corp. v. Adaptix, Inc.*,  
IPR2015-01184, Paper 10 (P.T.A.B. July 24, 2015) .....5, 7, 14, 15

35 U.S.C. §103(c) .....10

35 U.S.C. § 315(b) .....15

35 U.S.C. § 315(c) .....2

35 U.S.C. § 316(a)(11).....3

37 C.F.R. § 42.5(c)(2) .....3

37 C.F.R. § 42.20(c).....2

37 C.F.R. § 42.51(b)(1)(iii).....5

37 C.F.R. § 42.122 .....2

Dr. Reddy's Laboratories, Inc. and Dr. Reddy's Laboratories, Ltd.

(collectively, "DRL") seek joinder with Mylan Pharmaceuticals Inc. ("Mylan") in *Mylan Pharmaceuticals Inc. v. Merck Sharp & Dohme Corp.*, IPR2020-00040 ("Mylan IPR"). Paper 2. In separate proceedings, Teva Pharmaceuticals USA, Inc. and Watson Laboratories, Inc. (collectively, "Teva"), IPR2020-01045, Paper 4, and Sun Pharmaceutical Industries, Ltd. ("Sun"), IPR2020-01072, Paper 2, also seek to join the Mylan IPR.

Pursuant to the Board's June 18, 2020 Order in IPR2020-01045, Paper 5, Merck conferred with Teva, DRL, Sun ("Joinder Petitioners"), and Mylan (Mylan, collectively with Joinder Petitioners, "Petitioners"), to determine what, if any, issues related to joinder remain in dispute. Merck sought (1) Petitioners' agreement to structure any joined proceedings such that Merck would have an opportunity to seek and receive party discovery from Joinder Petitioners before deposing Mylan's sole expert and before submitting its Patent Owner's Response; and (2) Joinder Petitioners' agreement to serve a true understudy role in the Mylan IPR, including by withdrawing each of their experts once Mylan's expert was deposed.

Petitioners have not agreed to these conditions. Joinder therefore threatens to deprive Merck of its discovery rights because the current Mylan IPR schedule does not allow time for Merck to seek and receive discovery and make use of it in

# 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.