
From: Ferrill, Elizabeth
Sent: Tuesday, February 2, 2016 3:21 PM
To: Malik, Jitty
Cc: EXT- bryan.skelton@alston.com; Soderstrom, Lance; Abe, James; Dyellin@crowell.com; JLindsay@crowell.com; Diner, Bryan; Hasford, Justin; Goldberg, Joshua; EXT- deepro.mukerjee@alston.com
Subject: RE: Follow-up on Dec 11 Call with Board (IPR2016-00089, -00090, and -00091)

Jitty,

Thank you for your email. At this point, we feel that our previous emails have sufficiently articulated our position on this issue and under what circumstances Senju will need to preserve its positions by filing its Opposition and Preliminary Response next Tuesday. As to what Senju will do after it files its Opposition and Preliminary Response, that depends on what happens after that date as events unfold, and Senju cannot commit to anything further at this point.

On the other hand, we are not completely clear on what InnoPharma's proposal will be to the Board on this issue. While you have characterized this as "Senju's proposal," it remains InnoPharma's burden to explain to the Board why joinder is appropriate. If you would like any additional commitments from Senju, please outline your client's proposal in writing so that we may clearly understand it and consult with our client about any additional agreements.

I trust this is what you were calling me about, but if you have something else you would like to discuss, please let us know.

Best regards,
Beth

Elizabeth D. Ferrill
Attorney at Law

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FINNEGAN

From: Malik, Jitty [mailto:Jitty.Malik@alston.com]
Sent: Monday, February 1, 2016 1:51 PM
To: Ferrill, Elizabeth
Cc: EXT- bryan.skelton@alston.com; Soderstrom, Lance; Abe, James; Dyellin@crowell.com; JLindsay@crowell.com; Diner, Bryan; Hasford, Justin; Goldberg, Joshua; EXT- deepro.mukerjee@alston.com
Subject: RE: Follow-up on Dec 11 Call with Board (IPR2016-00089, -00090, and -00091)

Beth,

Following up on our conversation, if InnoPharma agrees to Senju's proposal as outlined below (and Lupin consents to InnoPharma using Dr. Lawrence), Senju will not change its position. Specifically, if we notify the Board that InnoPharma is amenable to Senju's proposal and the Board resolves this situation before February 9 showing that it is in favor of the

proposal, then Senju will not alter course, in that it will not file any Oppositions to Joinder or Patent Owner Preliminary Responses in IPR2016-00089, -00090, and -00091, and will notify the Board accordingly during any call.

If the parties have contacted the Board before February 9th, but the Board is unable to convene by that time to indicate its approval of the parties' agreement, then you informed me that Senju will file its Oppositions to Joinder and/or Patent Owner Preliminary Responses in IPR2016-00089, -00090, and -00091. If, however, the Board subsequently convenes and approves of the parties' arrangements, then Senju agrees to withdraw its Oppositions to Joinder and any Patent Owner Preliminary Responses it might have filed, and notify the Board accordingly.

If I am incorrect in my understanding **in any way**, please notify us immediately so that we can have a full and correct understanding of Senju's proposal before our discussions with our client.

Thanks,

Jitty

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From: Ferrill, Elizabeth [<mailto:Elizabeth.Ferrill@finnegan.com>]

Sent: Tuesday, January 26, 2016 12:04 PM

To: Malik, Jitty

Cc: Skelton, Bryan; Soderstrom, Lance; Abe, James; Dyellin@crowell.com; JLindsay@crowell.com; Diner, Bryan; Hasford, Justin; Goldberg, Joshua; Mukerjee, Deepro

Subject: RE: Follow-up on Dec 11 Call with Board (IPR2016-00089, -00090, and -00091)

Jitty,

Thank you for your email. It remains Senju's position that there is not adequate time before the Senju Patent Owner response due date in the Lupin IPRs for InnoPharma to file substitute petitions dropping Grounds 2 and 3 from the above-mentioned IPRs and realign the Laskar declaration accordingly; for the Board to institute on Ground 1 and join the IPRs; for Senju to depose Dr. Laskar, as an additional expert; and for Senju to respond to Dr. Laskar's arguments in its Patent Owner Responses.

Accordingly, as we stated in our January 13th email below and in our call last week, we think that the only way that InnoPharma could join the existing proceedings IPR2015-01097, -01105, and -01100, between Lupin and Senju, without prejudice to Senju, Lupin, or the Board, is for InnoPharma to take a secondary role to Lupin in those proceedings without any right to separate briefing or discovery, by agreeing to drop its current petitions in IPR2016-00089, -00090, and -00091 and its reliance on Dr. Laskar and join the ongoing, existing proceedings as a co-petitioner with Lupin. As we discussed last Thursday, you plan to discuss this with your client and, if appropriate, seek consent from Lupin to join their existing proceedings. Once you have approval from your client and consent from Lupin, we suggest a follow-up discussion to determine whether this arrangement can work without unduly prejudicing Senju, given the passage in time and the closeness of Due Date 1. Afterward, we could consider whether, following the Board's advice from December 11, to email the Board to set up a call to discuss the particulars of InnoPharma joining the Lupin IPRs.

If this issue were fully resolved by February 9, then Senju could agree not to file its Opposition to Joinder and to waive its Patent Owner Preliminary Response in IPR2016-00089, -00090, and -00091. If, however, it becomes apparent that the issue cannot be resolved by February 9, then Senju will move forward with filing its Opposition to Joinder and a Patent Owner Preliminary Response in IPR2016-00089, -00090, and -00091 on February 9.

Please let us know if you have any questions. We look forward to hearing from you.

Best regards,
Beth

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FINNEGAN

From: Malik, Jitty [<mailto:Jitty.Malik@alston.com>]

Sent: Monday, January 25, 2016 5:19 PM

To: Ferrill, Elizabeth

Cc: EXT- bryan.skelton@alston.com; Soderstrom, Lance; Abe, James; Dyellin@crowell.com; JLindsay@crowell.com; Diner, Bryan; Hasford, Justin; Goldberg, Joshua; EXT- deepro.mukerjee@alston.com

Subject: RE: Follow-up on Dec 11 Call with Board (IPR2016-00089, -00090, and -00091)

Beth,,

I wanted to follow up on the conversation we had last week about providing Senju's full proposal in writing, including the preliminary response issue we discussed. (I talked to Bryan about it briefly on Friday too.) Are you able to provide it tomorrow? Please feel free to contact me if you have any questions.

Thanks,

Jitty

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From: Ferrill, Elizabeth [<mailto:Elizabeth.Ferrill@finnegan.com>]

Sent: Wednesday, January 13, 2016 10:39 AM

To: Malik, Jitty

Cc: Skelton, Bryan; Soderstrom, Lance; Abe, James; Dyellin@crowell.com; JLindsay@crowell.com; Diner, Bryan; Hasford, Justin; Goldberg, Joshua; Mukerjee, Deepto

Subject: RE: Follow-up on Dec 11 Call with Board (IPR2016-00089, -00090, and -00091)

Jitty,

Thank you for your response. More than a month has passed since our call with the Board and Senju's Patent Owner Responses in the Lupin IPRs to which the above-mentioned InnoPharma IPRs would be joined are due on February 8, in just over three weeks. As a result, Senju now thinks that there is not adequate time before February 8 for InnoPharma to file its substitute petition dropping Grounds 2 and 3 and realign the Laskar declaration accordingly, for the Board to institute on Ground 1 and join the IPRs, for Senju to depose Dr. Laskar, as an additional expert, and for Senju to respond to Dr. Laskar's arguments in its Patent Owner Responses. Further, because the Board has indicated that the June hearing date will not be moved, we do not think that there is any additional space in the schedule to extend the February 8 due date for Patent Owner Responses without negatively affecting the other due dates.

Accordingly, we think that the only way that joinder is possible now, without prejudice to Senju, Lupin, or the Board, is for InnoPharma agree to no longer rely on Dr. Laskar (in addition to dropping Grounds 2 and 3) and for InnoPharma to take a secondary role to Lupin, if the Board joins the proceedings. In effect, InnoPharma would need to join the existing proceedings IPR2015-01097, -01105, and -01100 between Senju and Lupin.

We are free this week to discuss if you would like.

Best,
Beth

Elizabeth D. Ferrill

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From: Malik, Jitty [<mailto:Jitty.Malik@alston.com>]

Sent: Wednesday, January 13, 2016 8:23 AM

To: Ferrill, Elizabeth

Cc: EXT- bryan.skelton@alston.com; Soderstrom, Lance; Abe, James; Dyellin@crowell.com; JLindsay@crowell.com; Diner, Bryan; Hasford, Justin; Goldberg, Joshua; EXT- deepto.mukerjee@alston.com

Subject: RE: Follow-up on Dec 11 Call with Board (IPR2016-00089, -00090, and -00091)

Beth,

Following up on your email, InnoPharma is prepared to drop Grounds 2 and 3 in IPR2016-00089, -00090, and -00091 based on its understanding that neither Senju nor Lupin will file any oppositions to InnoPharma's motion for joinder or oppose InnoPharma's use of Dr. Laskar, and that Senju will not be filing any Preliminary Responses to InnoPharma's petitions in IPR2016-00089, -00090, and -00091. I suggest we schedule a call amongst ourselves to discuss any other details (e.g., additional pages for responses) and then we approach the Board.

Thanks,

Jitty

From: Ferrill, Elizabeth [<mailto:Elizabeth.Ferrill@finnegan.com>]

Sent: Tuesday, December 29, 2015 11:19 AM

To: Malik, Jitty

Cc: Skelton, Bryan; Soderstrom, Lance; Abe, James; Dyellin@crowell.com; JLindsay@crowell.com; Diner, Bryan; Hasford, Justin; Goldberg, Joshua

Subject: Follow-up on Dec 11 Call with Board (IPR2016-00089, -00090, and -00091)

Hi Jitty,

Further to our call with the Board on December 11, please let us know if InnoPharma has made a decision regarding the status of Grounds 2 and 3 in IPR2016-00089, -00090, and -00091. Given the fast-approaching deadline of Feb 1 for the Patent Owner's Response in IPR2015-01099, -01097, -01105, -01100, we think that it makes sense to discuss this issue amongst the parties this week, if possible, and then ask the Board for a call next week to propose a plan.

We are available to discuss this week.

Best regards,

Beth

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