

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DR. REDDY'S LABORATORIES INC.,
Petitioner

v.

POZEN INC. and HORIZON PHARMA USA, INC.,
Patent Owners.

Case IPR2018-01341
Patent 9,393,208 B2

Before TONI R. SCHEINER, MICHELLE N. ANKENBRAND, and
DEBRA L. DENNETT, *Administrative Patent Judges*.

DENNETT, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
Suspending Deadlines Due to Suggestion of Bankruptcy
37 C.F.R. § 42.5

On October 12, 2018, Pozen filed a Suggestion of Bankruptcy (the “Suggestion”). Paper 8. According to the Suggestion, Pozen filed for bankruptcy under Chapter 11 on August 10, 2018. *Id.* at 2. Pozen earlier filed a Suggestion of Bankruptcy in IPR2018-00272¹ (Paper 12), to which Petitioner Dr. Reddy’s Laboratories, Inc. seeks joinder (Paper 3), and in IPR2017-01995² (Paper 50), to which we joined Petitioner on August 13, 2018 (*see* IPR2018-00894, Paper 10).³ Counsel for Pozen explained that although Pozen filed a Suggestion of Bankruptcy in each of the related cases on August 28, 2018, Pozen inadvertently omitted the Suggestion from this proceeding.

A conference call was held between Judges Ankenbrand and Scheiner, counsel for the parties, and bankruptcy counsel for Pozen on August 30, 2018, to discuss the earlier-filed Suggestion of Bankruptcy. During the conference call, Pozen’s bankruptcy counsel contended that the automatic stay under 11 U.S.C. § 362 applies to these proceedings. *See* IPR2017-01995, Paper 51, 2. Counsel for Petitioner (and counsel for Petitioner Mylan Pharmaceuticals Inc. (“Mylan”)) did not agree that the automatic stay applies to *inter partes* review proceedings. *Id.* After hearing argument from all parties, we determined that the disagreement would be best addressed in the bankruptcy court and issued an Order suspending all deadlines in IPR2017-01995 and IPR2018-00272 until further notice. *Id.* at 3.

¹ The instant case and IPR2018-00272 both concern U.S. Patent No. 9,393,208 (“the ’208 patent”).

² IPR2017-01995 and IPR2018-00894 both concern U.S. Patent No. 9,220,698, which is the parent of the ’208 patent.

³ The challenged patents also are assigned to Horizon Inc. (“Horizon”). The Suggestion applies only to Pozen.

Neither party has informed us of any changed circumstances nor reasons why the same Order would not apply to this proceeding.

In view of the foregoing, it is

ORDERED that the due date for Patent Owner's preliminary response in this proceeding is suspended until further notice;

FURTHER ORDERED that Pozen shall provide the Board with a status report on the bankruptcy proceedings by email on or before October 28, 2018, and every thirty (30) days thereafter until ordered otherwise in these proceedings; and

FURTHER ORDERED that Mylan (on behalf of Petitioners) shall file as exhibits in these proceedings any filings in the bankruptcy court that any of the parties to these proceedings, any party to the bankruptcy proceeding, or any third party makes, as well as any opinions or orders of the bankruptcy court related to whether the automatic stay applies to these proceedings or whether relief is granted from such a stay. Mylan shall make such filings in these proceedings no more than five (5) business days after the filings are made, or the opinions or orders are entered, in the bankruptcy court.

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PETITIONER:

Alan H. Pollack
BUDD LARNER, P.C.
apollack@buddlerner.com

Stuart D. Sender
Louis H. Weinstein
BUDD LARNER, P.C.
ssender@buddlerner.com
lweinstein@buddlerner.com

PATENT OWNER:

Thomas A. Blinka, Ph.D.
COOLEY LLP
TBlinka@cooley.com

Margaret J. Sampson, Ph.D
BAKER BOTTS LLP
Margaret.Sampson@bakerbotts.com