

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC. and
DR. REDDY'S LABORATORIES, INC.,
Petitioners,

v.

HORIZON PHARMA USA, INC. and NUVO PHARMACEUTICALS
(IRELAND) DESIGNATED ACTIVITY COMPANY,
Patent Owners.

Case IPR2017-01995¹ (Patent 9,220,698 B2)
Case IPR2018-00272 (Patent 9,393,208 B2)
Case IPR2018-01341 (Patent 9,393,208 B2)²

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

DENNETT, *Administrative Patent Judge*.

ORDER
Revising the Scheduling Order
37 C.F.R. 42.5(c)

¹ Petitioner Dr. Reddy's Laboratories, Inc. ("Dr. Reddy's"), from IPR2018-00894 has been joined as a Petitioner to this proceeding.

² We exercise our discretion to issue one Order to be filed in all three cases. The parties are not authorized to use this style heading for subsequent papers without Board preapproval.

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On January 31, 2019, pursuant to Board order, the parties submitted a joint Proposed Scheduling Order in IPR2017–01995 (“the 1995 IPR”) and IPR2018–00272 (“the 272 IPR”). Paper 62.³ In accordance with our prior guidance, the Proposed Scheduling Order consolidates the schedules for the 1995 IPR and the 272 IPR, and proposes an oral argument date for both proceedings of June 14, 2019. *Id.* at 1–2. The Proposed Scheduling Order also notes that we have not yet determined whether to institute review in IPR2018-01341 (“the 1341 IPR”) or whether to grant Petitioner Dr. Reddy’s motion for joinder to the 272 IPR. *Id.* at 1. However, the parties propose the same dates for the 1341 IPR if we institute review and grant the motion for joinder. *Id.*

After having considered the joint Proposed Scheduling Order, we determine that administering all three proceedings under the same schedule is appropriate in order “to secure the just, speedy, and inexpensive resolution” of each proceeding. 37 C.F.R. § 42.1(b). Accordingly, we adopt the parties’ proposed revisions to the Scheduling Order in the 1995 IPR and the 272 IPR, with the exception of DUE DATE 3, which we schedule as the due date for Patent Owner’s Sur-reply.⁴ The attached DUE DATE APPENDIX supersedes the DUE DATE APPENDIX attached to the Scheduling Order issued in the 1995 IPR and the 272 IPR (1995 IPR, Paper 19; 272 IPR, Paper 10). Should we institute review and grant the motion for

³ The parties submitted substantively similar papers in each proceeding. Unless otherwise noted, citations are to the papers filed in the 1995 IPR.

⁴ *See* Office Patent Trial Practice Guide, August 2018 Update, 83 Fed. Reg. 39,989 (Aug. 13, 2018) at 14 (explaining that a patent owner sur-reply “essentially replaces the previous practice of filing observations on cross-examination testimony”); 1995 IPR Paper 60, 2–3 n.4.

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joinder in the 1341 IPR, the same schedule will apply because granting the joinder motion will join Dr. Reddy's to the 272 IPR and terminate the 1341 IPR.

It is

ORDERED that the 1995 IPR and the 272 IPR shall be administered under a single schedule as reflected in the DUE DATE APPENDIX attached to this Order; and

FURTHER ORDERED that the DUE DATE APPENDIX attached to this Order supersedes the DUE DATE APPENDIX attached to the Scheduling Order issued in each of the 1995 IPR and the 272 IPR.

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DUE DATE APPENDIX

DUE DATE 1 March 1, 2019

Patent owner's response to the petition in the 272 IPR (this date will also apply to Petitioner Dr. Reddy's petition from the 1341 IPR if we institute review and join Dr. Reddy's to the 272 IPR)

DUE DATE 2 April 26, 2019

Petitioner's reply to patent owner's response to petition

DUE DATE 3 May 10, 2019

Patent owner's sur-reply to patent owner's response

DUE DATE 4 May 17, 2019

Motion to exclude evidence

Request for oral argument

DUE DATE 5 May 24, 2019

Opposition to motion to exclude

DUE DATE 6 May 31, 2019

Reply to opposition to motion to exclude

Request for prehearing conference

DUE DATE 7 June 14, 2019

Oral argument (if requested)

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