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**To:** [Krumplitsch, Susan](#); [Trials](#)  
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**Subject:** RE: PGR2023-00043, Intas Pharm. Ltd. v. Atossa Therapeutics, Inc.  
**Date:** Wednesday, September 4, 2024 4:28:06 PM  
**Attachments:** [image001.png](#)

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Counsel:

From the Board –

Patent Owner’s unopposed request for authorization to file a supplemental declaration of Dr. Davies with its Sur-Reply is granted. Dr. Davies’s supplemental declaration shall be limited to responding to Petitioner’s enablement argument, as agreed upon by the parties.

Petitioner is also authorized to file the cross-examination transcript as an exhibit as soon as it becomes available and to file observations no later than 10 business days after the cross-examination of Dr. Davies, if it so chooses (given the schedule, however, the Board encourages Petitioner to file the observations as soon as possible). Observations must be a concise statement of the relevance of the testimony and are not an opportunity to raise new issues or re-argue issues. Observations should identify by page and line number the relevant testimony of the witness, identify what specific argument (i.e., by paper number and pincite) that the testimony responds to, and include a very short one to two sentence statement of why that testimony is relevant.

Regards,

Esther Goldschlager  
Supervisory Paralegal Specialist  
Patent Trial & Appeal Board  
U.S. Patent & Trademark Office

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**From:** Krumplitsch, Susan <Susan.Krumplitsch@us.dlapiper.com>  
**Sent:** Friday, August 23, 2024 3:16 PM  
**To:** Trials <Trials@USPTO.GOV>  
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**Subject:** PGR2023-00043, Intas Pharm. Ltd. v. Atossa Therapeutics, Inc.

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Dear Honorable Board,

In PGR2023-00043, Patent Owner requests authorization to include a supplemental declaration from Patent Owner’s expert, Dr. Davies, as an exhibit to Patent Owner’s Sur-Reply, limited to responding to enablement opinions offered by Petitioner’s expert.

Petitioner's Reply included an Expert Declaration of Ron Bihovsky, PhD (Ex. 1030) responding to the opinions raised by Patent Owner's expert in support of Patent Owner's Response that the prior art reference relied on was not enabled. Patent Owner's expert has therefore not had an opportunity to respond to the enablement opinions raised in Dr. Bihovsky's declaration.

The parties have conferred. Petitioner does not oppose Patent Owner's request to submit a supplemental declaration from Dr. Davies as an exhibit to Patent Owner's Sur-Reply provided that Petitioner be permitted to depose Dr. Davies and submit his transcript into the record and provide observations, if necessary. Patent Owner does not object to Petitioner's request to make Dr. Davies available for deposition regarding his opinions contained in his supplemental declaration.

In addition, Patent Owner requests an extension to Due Date 3, from August 28, 2024 to September 6, 2024. No other dates in the schedule would be impacted.

Petitioner does not oppose Patent Owner's request to move Due Date 3 to September 6, 2024.

The parties are available for a conference call at the Board's request.

Kind regards,

Susan Krumplitsch

**Susan Krumplitsch**

Partner

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