From: Matthew Traupman
To: Struthers, Abigail
Cc: Fishman, Deborah; Elliot Choi; QE - Samsung Bioepis
Subject: RE: IPR2023-00566 -- follow-up on M&C re: Samsung"s motion for joinder
Date: Thursday, March 9, 2023 5:55:46 PM
Attachments: image001.png

External E-mail

Dear Abby,

Our draft language copies essentially verbatim the language used by the Board in several other IPRs in which there was a motion for joinder. *See, e.g. Ecobee Techs. Ulc v. Ecofactor, Inc.*, No. IPR2022-00473, 2023 WL 372383, at *3 (P.T.A.B. Jan. 24, 2023) ("subsequent to joinder, Petitioner is bound by every paper filed by and every representation made by Google in IPR2022-00473, except for papers and representations regarding settlement between Google and Patent Owner."); *Dell Inc. v. Neodron Ltd.*, No. IPR2020-00731, 2020 WL 4390670, at *3 (P.T.A.B. July 31, 2020) ("subsequent to joinder, Petitioner is bound by every paper filed by and every representation made by Samsung in IPR2020-00515, except for papers and representations regarding settlement between Samsung and Patent Owner."); *Ericsson Inc. v. Uniloc 2017 LLC*, No. IPR2020-00376, 2020 WL 2613358, at *7 (P.T.A.B. May 22, 2020) ("subsequent to joinder, Ericsson Inc. is bound by every paper filed by and every representation made by Microsoft Corporation in IPR2019-01116, except for papers and representations regarding settlement between Microsoft Corporation and Patent Owner."). In contrast, your proposed language, which asks Samsung to agree to be "bound" by "representations" made by Mylan's experts is not found in any case law that Samsung is aware of, including the case law you sent last Friday. Moreover, your proposed language is problematic for several reasons. First, it is not clear to Samsung what portions of an expert's testimony would or would not be considered a "representation." Second, it is not clear to Samsung what it means for a party to be "bound" by a "representation" made by an expert. Indeed, Samsung is not aware of any case law that would support a finding that Mylan is "bound" by "representations" made by its own experts, let alone that an understudy petitioner would be bound by such representations. Samsung therefore does not agree to Regeneron's proposed edits.

Samsung expects that the transcripts of the cross examinations of Drs. Albini and Gerritsen will be filed as exhibits in IPR2022-01226. To the extent that Mylan does or does not make objections to those exhibits, Samsung is agreeing to be bound by Mylan's filings. Moreover, as we noted in our email correspondence last week, in the event that Samsung becomes the lead petitioner before the transcripts of the cross examinations of Drs. Albini and Gerritsen are filed, Samsung will not object to those exhibits on the basis that they were taken in a different IPR and Regeneron would be free to seek to introduce the cross examinations of Drs. Albini and Gerritsen as if they were taken in IPR2023-00566. This is fully consistent with Samsung's role as "understudy" petitioner and we do not believe Regeneron's proposal to impose additional limitations on Samsung as a condition for stipulating to Samsung's motion for joiner is either necessary or appropriate.

We believe our draft stipulation is appropriate and consistent with the applicable regulations and PTAB case law. Please let us know if Regeneron will agree to it.

Best,
Matt

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Partner
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From: Struthers, Abigail <Abigail.Struthers@arnoldporter.com>
Sent: Thursday, March 9, 2023 8:57 AM
To: Matthew Traupman <matthewtraupman@quinnemanuel.com>
Cc: Fishman, Deborah <Deborah.Fishman@arnoldporter.com>; Elliot Choi <elliotchoi@quinnemanuel.com>; QE - Samsung Bioepis <qe-samsungbioepis@quinnemanuel.com>
Subject: RE: IPR2023-00566 -- follow-up on M&C re: Samsung's motion for joinder

[EXTERNAL EMAIL from abigail.struthers@arnoldporter.com]

Dear Matt,

You edits removed reference to Mylan's experts. Is Samsung declining to agree to be bound by the representations of Mylan's experts? Assuming that is not the case, I have accepted your edits and reinstated the reference to Mylan's experts in the attached (and fixed a typo in the citation in para. 3). Please confirm that this version is acceptable at your earliest convenience. If the parties are in agreement we would like to get this executed by COB ET today.

Best regards,
Abby

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Partner | Bio

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From: Matthew Traupman <matthewtraupman@quinnemanuel.com>
Sent: Wednesday, March 8, 2023 5:58 PM
To: Struthers, Abigail <Abigail.Struthers@arnoldporter.com>
Cc: Fishman, Deborah <Deborah.Fishman@arnoldporter.com>; Elliot Choi <elliotchoi@quinnemanuel.com>; QE - Samsung Bioepis <qe-samsungbioepis@quinnemanuel.com>
Subject: RE: IPR2023-00566 -- follow-up on M&C re: Samsung's motion for joinder

External E-mail

Dear Abby,

Attached are SB's edits to the draft stipulation.

Best,
Matt

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From: Struthers, Abigail <Abigail.Struthers@arnoldporter.com>
Sent: Tuesday, March 7, 2023 1:57 PM
To: Matthew Traupman <matthewtraupman@quinnemanuel.com>
Cc: Fishman, Deborah <Deborah.Fishman@arnoldporter.com>; Elliot Choi <elliotchoi@quinnemanuel.com>; QE - Samsung Bioepis <qe-samsungbioepis@quinnemanuel.com>
Subject: RE: IPR2023-00566 -- follow-up on M&C re: Samsung's motion for joinder

[EXTERNAL EMAIL from abigail.struthers@arnoldporter.com]

Dear Matt,

Thank you for your email. I've attached a draft joint stipulation to memorialize the parties'

agreements. Please confirm receipt and let us know at your earliest convenience, but no later than COB Eastern tomorrow, whether Samsung will jointly stipulate.

Best regards,
Abby

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From: Matthew Traupman <matthewtraupman@quinnemanuel.com>
Sent: Monday, March 6, 2023 9:09 PM
To: Struthers, Abigail <Abigail.Struthers@arnoldporter.com>
Cc: Fishman, Deborah <Deborah.Fishman@arnoldporter.com>; Elliot Choi <elliotchoi@quinnemanuel.com>; QE - Samsung Bioepis <qe-samsungbioepis@quinnemanuel.com>
Subject: RE: IPR2023-00566 -- follow-up on M&C re: Samsung's motion for joinder

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Dear Abby,

We appreciated the opportunity on Friday to discuss SB's motion for joinder and to consider the case law you forwarded. SB confirms that upon completion of the depositions of Drs. Albini and Gerritsen, in IPR2022-01226 (which you indicated are currently scheduled to be completed by March 21, 2023), SB will withdraw Dr. Bloom's declaration in IPR2023-00566. Furthermore, consistent with the case you forwarded, SB confirms that it "will be bound in this proceeding by the papers filed and representations made by Mylan in the Mylan IPR." *Sun Pharms. Indus. Ltd. v. Merck Sharp & Dohme Corp.*, 2020 WL 5221759, at *4 (Patent Tr. & App. Bd. Sept. 1, 2020).

Regards,
Matt

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From: Struthers, Abigail <Abigail.Struthers@arnoldporter.com>
Sent: Friday, March 3, 2023 3:20 PM
To: Matthew Traupman <matthewtraupman@quinnemanuel.com>
Cc: Fishman, Deborah <Deborah.Fishman@arnoldporter.com>; Elliot Choi <elliotchoi@quinnemanuel.com>
Subject: IPR2023-00566 -- follow-up on M&C re: Samsung's motion for joinder

[EXTERNAL EMAIL from abigail.struthers@arnoldporter.com]

Dear Matt,

Thank you for the call this afternoon. As discussed, please see attached examples of decisions citing joinder parties' agreement to waive/withdraw joinder expert declaration and be bound by testimony and submissions of the main petitioner. We look forward to hearing from you on Monday regarding proposed procedure.

Best regards,
Abby

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