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To: Trials <Trials@USPTO.GOV>

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Subject: IPR2024-00033

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Your Honors,

Petitioner writes regarding the deposition of Patent Owner's expert declarant in IPR2024-00033. In connection with its Preliminary Response, Patent Owner submitted a declaration of Dr. John McCloy. Patent Owner has included the declaration in its list of exhibits in its Patent Owner Response and its Contingent Motion to Amend. Patent Owner also submitted a declaration of Dr. Sanjay Banerjee in connection with its Response, in which Dr. Banerjee says that he agrees with Dr. McCloy's opinions and has adopted them where relevant.

Patent Owner has refused to produce Dr. McCloy for a deposition. Petitioner requests that the Board compel Patent Owner to make Dr. McCloy available for deposition.

Patent Owner requested that its position be included in this email, which is provided as follows:

A deposition of Dr. McCloy is not warranted as Dr. McCloy's declaration was not cited or relied upon in Patent Owner's Response or Patent Owner's Contingent Motion to Amend, as is evident from the papers and as Patent Owner also confirmed to Petitioner during the meet-and-confer process. Patent Owner has already provided available deposition dates for Dr. Banerjee and Dr. Jason Stowers, whose declarations are relied upon in Patent Owner's Response.

Petitioner and Patent Owner are available for a conference call with the Board on Wednesday September 4th 1 p.m. – 4 p.m. or Friday September 6th 3 p.m. – 5 p.m., the only two days next week for which Patent Owner's counsel provided availability.

Respectfully,

Alison Patitucci
Counsel for Petitioner

Alison P. Patitucci, Ph.D.

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