
From: Padro, John P
Sent: Tuesday, August 19, 2025 5:01 PM
To: Fletcher, Thomas
Cc: IDT-Tecan-IPRs; DG-Goodwin-Tecan
Subject: RE: IPR2025-00015 and IPR2025-00016
Attachments: 2025.08.19 Declaration of Eli Meyer.pdf; Meyer Decl. to Matz Decl. Redline.pdf

Tom,

It is not clear why your email does not reflect this, but both parties already agreed last week not to contact Dr. Matz about this case pending the resolution of these issues. To be clear, this agreement was without conceding that it was necessary as Tecan has never received any confidential material from Dr. Matz, as explained in our earlier correspondence.

Tecan has expended considerable resources in an attempt to resolve Petitioner's objections, but we have faced nothing but obstruction. The extension was offered to address the issues Petitioner raised regarding Dr. Matz, using the substitute procedure Petitioner proposed, and following the precedent Petitioner relies upon. To now hear after going through that effort that Petitioner will continue to manufacture objections is deeply concerning. These shifting positions and the new set of irrelevant requests suggest Petitioner's concerns are simply pretext to exclude relevant testimony about the public disclosures in Meyer from its authors.

For example, Petitioner still refuses to provide any factual or legal basis for the alleged concerns it raises with respect to the substitute declaration from Dr. Meyer (or your allegedly related questions). We have repeatedly asked you for this, and far from not responding on these issues, it has been Petitioner that has simply ignored our request on these points. To make this point explicit, Petitioner has provided no authority for the concerns it raises, let alone for the information Petitioner requests. At the same time, Petitioner refuses to provide (or even respond to Tecan's requests) about the confidential information allegedly shared with Dr. Matz, which are the central issue in Petitioner's motion.

However, in an effort to resolve Petitioner's concerns about Dr. Matz's involvement, attached is Dr. Meyer's declaration, which we intend to seek the Board's leave to submit as a substitute for Dr. Matz's declaration in response to your motion.

Please let us know if this additional information changes your position.

John Padro



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From: Fletcher, Thomas <TFletcher@wc.com>
Sent: Monday, August 18, 2025 12:21 PM
To: Padro, John P <JPadro@goodwinlaw.com>
Cc: IDT-Tecan-IPRs <IDT-Tecan-IPRs@wc.com>; DG-Goodwin-Tecan <DG-GoodwinTecan@goodwinlaw.com>
Subject: RE: IPR2025-00015 and IPR2025-00016

EXTERNAL

John,

We cannot agree to extend again the deadline for Tecan's opposition without the information and commitments we requested.

We asked you some questions about your proposal to introduce a substitute declaration. Your response essentially ignored them. Accordingly, it appears that it will be necessary for the Board to resolve the motion to disqualify Dr. Matz.

When you file your response, we expect you will accurately reflect our concerns. We agree under *Galderma* that a party can be permitted to provide a substitute declaration to ameliorate the prejudice it would suffer from having its evidence struck. Our concerns arise from how Tecan has conducted itself in seeking a substitute declaration, and they are two-fold.

1. Ongoing contact with Dr. Matz. We have repeatedly asked you to stop consulting with Dr. Matz. You have repeatedly declined to do so. Dr. Matz promised us that he would not consult with anyone else in connection with the IDT-Tecan dispute. With that promise, we shared with him confidential information. While you may not have known that Dr. Matz made that promise when you started speaking with him, you have known about it now for weeks.

You asked us about case law. A Ninth Circuit opinion explains: "There is a scarcity of case law on the issue of ex parte contact with expert witnesses, possibly because the violation seldom happens." *Erickson v. Newmar Corp.*, 87 F.3d 298, 302 (9th Cir. 1996). In other words, this is such a clear issue that counsel know not to do what you have been doing. We expect Tecan to stop communicating with Dr. Matz.

2. The process for preparing a substitute declaration. Our concern arises from the first point. Dr. Matz's involvement in this case should have stopped as soon we objected. If he was involved in getting Dr. Meyer involved, then the proposed declaration suffers from the same problems as Dr. Matz's declaration. All of the basic factual questions we posed are directed to understanding the propriety of the process by which the proposed supplemental declaration is being offered.

To reiterate, we believe the following commitments and information are essential to resolving this dispute. If Tecan remains unwilling to provide them, the parties are at an impasse.

- A log of communications between Tecan or its counsel and Dr. Matz since July 22, 2025, so that we can assess the gravity of the situation.
- The date on which Tecan or its counsel first contacted Dr. Meyer.

- A copy of Tecan's retention agreement with Dr. Meyer.
- Confirmation that Dr. Meyer has not spoken to Dr. Matz about this case.
- Assurance that Dr. Meyer has agreed he will not speak to Dr. Matz about this case.
- Assurances that neither Tecan nor its counsel will speak to Dr. Matz about this case, including regarding Dr. Meyer's potential involvement in this case, going forward.

Regards,

Tom

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From: Padro, John P <JPadro@goodwinlaw.com>
Sent: Friday, August 15, 2025 8:42 PM
To: Fletcher, Thomas <TFletcher@wc.com>
Cc: IDT-Tecan-IPRs <IDT-Tecan-IPRs@wc.com>; DG-Goodwin-Tecan <DG-GoodwinTecan@goodwinlaw.com>
Subject: RE: IPR2025-00015 and IPR2025-00016

Tom,

Please let us know once you have spoken to your client. Given Tuesday's deadline, we will need to know your position no later than Monday at noon so we can notify the Board if needed.

Your email accurately summarizes the proposed process. On your first question, we can extend the subsequent deadlines for both parties by a couple of weeks to accommodate these discussions. We are happy to make that part of the overall procedure if we can otherwise agree on the process.

As to the remainder of your requests, we struggle to see their relevance or even the basis for your requests. For example, it is not clear why you need a copy of Dr. Meyer's engagement letter. Dr. Meyer was retained to resolve the dispute you raised and following the suggestion you made and the precedent you provided. That said, to the extent you have some authority and the relevance for each of your requests, please share them so we can assess how (if at all) they may help resolve the actual issues here. Critically, please also explain if and why you are or are not willing to follow the substitute procedure endorsed in *Galderma*, which you have otherwise repeatedly relied upon.

We are concerned your efforts raise unrelated topics is unproductive and distracting from resolving your stated concerns regarding Dr. Matz. For example, your unsupported speculation about impropriety by Tecan is not well taken. As we have discussed, Tecan separately retained Dr. Matz. It did so without knowing of an alleged engagement letter or any obligations to IDT. Nor did Tecan ever receive any confidential information in this case from any third party, let alone from Dr. Matz. In any case, no confidential information was necessary in this process as Dr. Matz's declaration concerns public information about his own publication.

To the extent you believe additional information is needed beyond Dr. Meyer's declaration, please provide the legal basis for each request and confirm you will produce unredacted copies of the documents relied upon in your brief. Per our earlier correspondence, without this information, we still cannot assess what your actual allegations are regarding confidential information (if any).

Regards,

John Padro



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From: Fletcher, Thomas <TFletcher@wc.com>
Sent: Friday, August 15, 2025 1:25 PM
To: Padro, John P <JPadro@goodwinlaw.com>
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Subject: RE: IPR2025-00015 and IPR2025-00016

EXTERNAL

John,

We will discuss your proposal with our client. There are two categories of things that would be helpful in doing so.

First, we want to make sure we understand your proposal. As we understand it, you are suggesting the following process—

- We jointly write to the Board asking for another extension of the time for Tecan's opposition to Tuesday, August 26, because the parties are working on the viability of substitute evidence.
- By Friday, August 22, Tecan provides IDT with a copy of the Meyer declaration. This enables IDT to verify that the Meyer declaration is not adding new arguments.
- If IDT is satisfied that it does not add new arguments, we jointly write to the Board getting leave for the substitute declaration, striking the Matz declaration, and withdrawing the pending motion.
- If IDT is not satisfied because it believes the Meyer declaration is adding new arguments, Tecan files its opposition to the motion to disqualify on August 26. And seeks leave to file a motion to substitute?

We see how this could work if everything goes smoothly. But if things fall apart, the situation has gotten even more compressed and chaotic. Can you provide the Meyer declaration earlier than Friday?

Second, we still have questions related to those we asked earlier in the week and that have not yet been answered. Before we can move past this issue and assess the viability of your proposal, we will need to know at least the following:

- Your recent correspondence implies that Tecan has continued to discuss this case with Dr. Matz after IDT informed Tecan of Dr. Matz's prior engagement. To the extent that is true, we think it was highly inappropriate. Please provide a log of each communication Tecan or its counsel has had with Dr. Matz since July 22, 2025 so that we can assess the gravity of the situation.
- Please provide the date on which Tecan or its counsel first contacted Dr. Meyer.
- Please provide a copy of Tecan's retention agreement with Dr. Meyer.
- Please confirm that Dr. Meyer has not spoken to Dr. Matz about this case.
- Please provide assurances that Dr. Meyer has agreed he will not speak to Dr. Matz about this case, even if the motion to disqualify Dr. Matz is withdrawn.
- Please provide assurances that neither Tecan nor its counsel will speak to Dr. Matz about this case, including regarding Dr. Meyer's potential involvement in this case, going forward, even if the motion to disqualify Dr. Matz is withdrawn.

Thank you,

Tom

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From: Padro, John P <JPadro@goodwinlaw.com>
Sent: Thursday, August 14, 2025 5:32 PM
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Subject: IPR2025-00015 and IPR2025-00016

Tom,

We write to follow-up on our prior conversation regarding your motion to disqualify Dr. Matz and submit a substitute declaration from Dr. Eli Meyer.

To address your questions, we have further investigated your suggestion of providing an alternative declarant for Dr. Matz. I can confirm that Dr. Meyer is prepared to provide a substitute declaration. Dr. Meyer is an author of the Meyer reference, the same subject matter addressed by Dr. Matz's declaration. We understand that Dr. Meyer has no relationship or obligations to IDT. This declaration will be similar if not identical to Dr. Matz's declaration with

limited changes to account for his personal background and experience. Dr. Meyer would attest to the accuracy of the opinions in his declaration under oath and would be offered for deposition on those opinions.

Given this and to eliminate the issues you have raised with the Board (and without agreeing to the merits of your motion to disqualify Dr. Matz), we will seek leave from the PTAB to substitute Dr. Matz's declaration with Dr. Meyer's declaration in exchange for IDT dropping its motion to disqualify. We note that this is the procedure the Board endorsed in connection with the *Galderma* matter that your motion to disqualify heavily relies upon (and which you have repeatedly directed us to on the alleged issues regarding Dr. Matz). *Galderma S.A. v. Medy-Tox, Inc.*, PGR2019-00062, Paper 56, at 9.

To effectuate this, we propose to provide the substitute declaration and update our response and related materials to cite to that substitute declaration no later than Friday, August 22, 2025. In exchange, the parties would inform the Board of this potential resolution to the issues in your motion and, subject to your final approval of the declaration by Tuesday, August 26, 2025, (1) Petitioner would agree to withdraw its Motion to Disqualify Dr. Matz and (2) the parties will jointly file a motion to substitute Dr. Meyer's declaration for that of Dr. Matz. In the meantime, the parties would ask the Board to hold any further deadlines on the pending motions in abeyance.

We believe this moots the present issues, especially given this was the procedure ordered by the PTAB in *Galderma* and that Petitioner's suggested we look for a substitute to resolve the motion. That said, please provide your position on these issues by COB tomorrow. To the extent you disagree or object to this process or submissions, please explain why and provide any legal authority supporting your position.

We are happy to confer further on these issues if needed before Tuesday's deadline.

Regards,

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