

Filed on behalf of: Amneal Pharmaceuticals, Inc.  
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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AMNEAL PHARMACEUTICALS, INC. AND KASHIV BIOSCIENCES,  
Petitioner,

v.

GENENTECH, INC. AND NOVARTIS PHARMACEUTICALS CORP.,  
Patent Owner.

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Case No. IPR2026-00260  
Patent No. 12,030,959

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**PETITIONER'S OPPOSITION TO PATENT OWNER'S  
REQUEST FOR DISCRETIONARY DENIAL**

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## I. INTRODUCTION

Respectfully, the Director should decline to exercise his discretion to deny institution. Patent Owner's (PO) primary substantive argument in its Request for Discretionary Denial (Br.) is that Amneal invites parallel litigation raising the same invalidity grounds as to *US959* here and in district court. Amneal filed this IPR before PO filed any action in district court. That the parties are currently engaging in the patent dance, without judicial intervention, does not warrant discretionary denial. PO has not filed a complaint in district court and the district court has therefore had *zero* investment concerning *US959*. Moreover, Petitioner's *Sotera* stipulation, filed herewith, completely diffuses any concern and guarantees that only the PTAB will adjudicate any grounds that were raised or reasonably could have been raised in the Petition.<sup>1</sup>

PO asserts that developing therapies for children is difficult, and XOLAIR (omalizumab) is the only biologic therapy approved to treat food allergies in

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<sup>1</sup> To the extent that PO argues that Amneal should have filed its *Sotera* stipulation with its Petition, as noted, the parties are not currently in litigation in other fora. The *Sotera* stipulation thus states that to the extent *US959* is litigated in a forum other than the PTAB, Amneal will not present any invalidity grounds raised or that could have been raised in this IPR.

children. Br., 1. PO ignores, however, that omalizumab was used well before the earliest effective filing date in children having the claimed weight range at the claimed dose. Pet., 28, 34-46. PO also ignores that a version of its own clinical trial, Version 26, was available more than a year before its earliest possible effective date. Pet., 29. Finally, FDA approval of Xolair for food allergy is not relevant to patentability. *E.g.*, *In re Brana*, 51 F.3d 1560, 1568 (Fed. Cir. 1995) (in discussing whether determining whether FDA approval is a prerequisite for finding a compound useful in the context of patent law, noting that “[t]he stage at which an invention ... becomes useful is well before it is ready to be administered to humans.”).

Also counseling against discretionary denial is that the Office committed material error in issuing the claims – a point that PO has not disputed. As discussed in the Petition, the Examiner erred by failing to reject many claims as anticipated and/or obvious over *MacGinnitie* (EX1008) and *Bégin* (EX1009). Pet., 2-3.

As also discussed in the Petition, because PO never called the examiner’s attention to prior art versions of the OUtMATCH clinical trial protocol, *e.g.*, *OUtMATCH-V26* (EX1005), the Office erroneously concluded that the claimed “relationship” between the mass of the patient, IgE levels, and the dose/frequency was new and that the challenged claims were allowable. Pet., 4-5. *OUtMATCH-V26* taught dosing of food allergy patients as young as one year of age based on

patient mass and baseline IgE, and other prior art, like *Arasi* (EX1006) and *PI2021* (EX1007), taught the relationship between these factors, *i.e.*, an algorithm for calculating dose/frequency based on patient mass and baseline IgE. Accordingly, had PO been candid, the Office would not have allowed the claims. Pet., 4-5.

Finally, Amneal's biosimilar will further this Administration's critical goal of lowering U.S. healthcare costs. Xolair has been on market in the U.S. for over 23 years and patent protection for the omalizumab antibody expired in 2017. Pet., 1. Now PO is using *US959*, as well as other later-filed secondary patents, to extend its already overextended monopoly. *US959* does not justify this: as discussed in the Petition, prior to *US959*, omalizumab had been studied and proven effective for the treatment of food allergies in adults and children, including children within the claimed weight range. A final written decision in Amneal's favor would help facilitate Amneal's inclusion of an improperly-patented indication in their label and thus increase patient access to Amneal's lower-cost biosimilar. In contrast, PO charges more than three-fold more for its branded omalizumab products in the U.S. than it does in other markets, such as the United Kingdom, and thus violates this Administration's desire to have most-favored nation pricing in the U.S. *See, e.g.*, EX1054; EX1055.

When the totality of the relevant evidence and arguments are weighed, they do not support discretionary denial. Accordingly, Petitioner respectfully requests that the Petition be referred for review of the merits.

## **II. THERE IS NO THREAT OF DUPLICATIVE LITIGATION**

### **A. Any Risk of Duplicative Litigation Is Speculative and, Regardless, Is Eliminated By Petitioner's Sotera Stipulation**

As Genentech notes, while Amneal and PO are engaged in the patent dance associated with the BLA for the proposed omalizumab product (“Amneal Product”), **no litigation has commenced and months could pass before that happens.** Accordingly, there is no case schedule or timeline for a court to adjudicate validity of *US959*. Because BPCIA litigation can take over three years from complaint through trial, a court may not adjudicate the validity of *US959* until late 2028 or early 2029, *i.e.*, more than a year after the deadline for the Board to issue a final written decision (FWD). *See, e.g., Biogen MA Inc. v. Sandoz Inc.*, No. 1:22-cv-01190 (D. Del. Sept. 9, 2022) (over 55 months from complaint to trial); *Immunex Corp. v. Sandoz Inc.*, 395 F. Supp. 3d 366 (D.N.J. 2019) (over 30 months from complaint to trial). Empirical analytics confirm that the median time to trial in pharmaceutical patent cases routinely exceeds 24 to 27 months, such that parallel district court litigation presents minimal risk of duplicative adjudication. *See, e.g., EX1056*, 17 (reporting a median time to trial of over 27 months for

pharmaceutical patent cases); *see also* EX1057, 3 (median time to trial in the District of Delaware exceeds 32 months).

PO suggests that a court could “reach at least tentative conclusions regarding the validity” of *US959* in a preliminary injunction (“PI”) proceeding, but PO has not pointed to an imminent threat of an at-risk launch or confirmed that it would rely on *US959* in a PI motion. PO previously listed *US959* among eight Purple Book patents for omalizumab, and that does not necessarily include all of the patents identified in PO’s disclosures to Petitioner pursuant to 42 U.S.C. §262(l)(3)(A) (“3A List”). Because patentees generally limit the total number of patents asserted in a PI to two or three, and sometimes just one, PO may never rely on *US959* in a PI motion, relying instead on one or more other patents identified in PO’s 3A List. *See, e.g., In re Aflibercept Pat. Litig.*, No. 1:24-MD-3103-TSK, 2024 U.S. Dist. LEXIS 128296, at \*14-16 (N.D.W. Va. June 14, 2024) (PI on one patent of at least 51 asserted in complaint); *Genentech, Inc. v. Amgen Inc.*, No. 1:18-cv-00924, Dkt. 274 (D. Del. July 10, 2019) (PI on 3 patents of 10 asserted in complaint). If *US959* were not asserted in a PI, validity would not be adjudicated until trial, and even then only if PO kept *US959* in any district court case.<sup>2</sup>

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<sup>2</sup> PO also argues that by the time the Board issues a FWD, the parties would be far into “fact discovery.” But PO has not explained why adjudication of *US959*, which

Nevertheless, Petitioner hereby stipulates that under *Sotera Wireless, Inc. v. Masimo Corp.*, IPR202001019, Paper 12, 18–19 (Dec. 1, 2020), if the Board institutes *inter partes* review, Petitioner will not pursue in any future litigation the specific grounds asserted in its Petition or any ground that reasonably could have been raised in an IPR. The Board has consistently held that a *Sotera* stipulation weighs against discretionary denial, because it avoids duplicative efforts between the district court and the Board. *Apple Inc. v. Vidal*, 63 F.4th 1, 9 (Fed. Cir. 2023); *In re Motorola Sols., Inc.*, 159 F.4th 30, 34–35 (Fed. Cir. 2025); *see also Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00217, Paper 9, 2 (June 13, 2025) (informative). Here, because of the *Sotera* stipulation, if the IPR is instituted there will be no “second bite at the apple” at the district court, or risk of the “redundant, resource wasting challenge” posited by PO. Br. 3–4.

Citing *Fintiv* and *Mylan*, PO contends that the presentation of “substantially identical prior art arguments” before a district court and the PTAB raises strong concerns of inefficiency and the possibility for conflicting decisions, favoring discretionary denial. Br., 12–13. For the same reasons as explained above, Petitioner’s *Sotera* stipulation eliminates such concerns for inefficiency and/or

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is directed to the treatment of food allergies, would require significant fact discovery, in contrast to, for example, process-related patents.

conflicting decisions, and therefore favors denial of PO's request for discretionary denial.

**B. The BPCIA Patent Dance Is Pre-Litigation and Non-Binding**

The parties' current engagement in the patent dance, and Amneal's incorporation of its IPR grounds in its detailed statement pursuant to 42 U.S.C. §262(l)(3)(B) ("3B Contentions"), do not dictate that the IPR should be discretionarily denied, particularly in light of the *Sotera* stipulation. PO provides no contrary legal support. The patent dance is, as PO correctly points out, an *optional* prelude to litigation. Br., 6. A patent dance, unlike an actual litigation, does not require a court to expend any resources or make any rulings, and therefore does risk duplicative workloads or inconsistent outcomes.

As PO also correctly notes, in a patent dance, the parties "'exchange information to identify relevant patents and to flesh out the legal arguments that they *might* raise in future litigation,'" narrowing issues in the process. Br., 9, 6 (quoting *Sandoz*, 582 U.S. at 8) (emphasis added). There is no requirement that a party litigate all, or even the same, issues raised during the patent dance. Indeed, PO's prior attempts to argue otherwise failed. *See Genentech v. Amgen*, D.Del., 17-cv-01407, Dkt. 626; *see also Amgen v. Apotex*, (Fed Cir 2017, non-precedential) (biosimilar applicant's statements during the patent dance are not necessarily binding). In light of this and the *Sotera* stipulation, the district court is not "already

... on a path” to adjudicate the issues raised in Amneal’s 3B contentions concerning *US959* (Br., 11). Nor will ““substantially identical prior art arguments [be] presented before a district court and the PTAB”” (Br., 12).

**C. Institution Is Not Inconsistent With the BPCIA or Congressional Intent**

Citing *Sandoz, Inc. v. Amgen Inc.*, 582 U.S. 1 (2017), PO argues that once Amneal decided to partake in the patent dance, the BPCIA’s framework now governs the resolution of any patent disputes. Br., 6. PO asserts that “[p]ermitting a biosimilar applicant that already has made the affirmative decision to initiate the Patent Dance to then open a second front before the PTAB and fight a near identical battle there would create enormous inefficiency and a risk of inconsistent decisions.” Br., 8-9. But as discussed above, Amneal’s *Sotera* stipulation ensures that the same grounds or any grounds that could have been reasonably raised will not be presented at any district court proceeding. Moreover, by bringing the prior art invalidity grounds before the PTAB, the issues before the district court will be simplified and narrowed.

Furthermore, to the extent that PO contends that *US959* should be immune to an IPR challenge because it was listed in the FDA’s Purple Book and therefore Petitioner should have filed a PGR, PO is wrong.

*US959* issued on July 9, 2024, less than 2 years before the May 26, 2026, filing of the instant Petition. PO has not argued that this is one of those rare

instances where it has “strong settled expectations in a patent that has only been in force for [less than six] years” because of “an extraordinary amount of investment, time, and resources dedicated to research, development, trials, and regulatory approval.” *Amgen Inc. v. Bristol-Myers Squibb Company*, IPR2025-00601, Paper 9, 2. Accordingly, any alleged settled expectations upon which PO relies do not support discretionary denial.

PO contends that Amneal could have sought post-grant review (PGR) because PO “had announced via the Purple Book that the patent covered omalizumab biosimilars, and Celltrion had settled and elected to wait more than a year to launch its product out of respect for the patent.” Br., 5. PO essentially argues that if a petitioner foregoes an opportunity to challenge a newly issued patent by PGR, then petitioner should be foreclosed from challenging that patent by IPR. But PO’s interpretation effectively extinguishes Chapter 31 of 35 U.S.C. (IPRs), or merges Chapter 31 with Chapter 32 (PGRs), by essentially reading out of the statute the ability to challenge a post-AIA patent by IPR. Because courts must give effect to every clause, phrase and word in a statute, the fact that Petitioner challenges *US959* through IPR rather than PGR does not support discretionary denial of this Petition. *See, e.g., Lane v. Pena*, 518 U.S. 187, 199-200 (1996); *see also, e.g., LifeVac LLC v. DCStar Inc.*, IPR2025-00454, Paper 11, 2 (July 11, 2025) (Precedential) (noting that an IPR may be filed and not be

discretionarily denied even when a previous PGR challenging the same patent was not instituted). Moreover, as discussed below in Section III this Petition serves the public interest of allowing the Office “to reconsider its own decision and correct a possible error in the original patent grant.” *See Magnolia Medical Technologies, Inc. v. Kurin, Inc.*, IPR2026-00097, Paper 17, 6 (May 14, 2026) (Precedential).

PO’s reference to the Celltrion settlement also has no bearing on settled expectations or whether Petitioner could have, or should have, filed a PGR. While Genentech states that Celltrion “elected to wait more than a year to launch its product out of respect for the patent,” Genentech provides no evidence regarding how *US959* related to the settlement and whether *US959*, as opposed any of the seven other patents listed in the Purple Book, or any other Genentech patent, impacted Celltrion’s decision to settle and/or Celltrion’s launch timing. Indeed, *US959* expires in 2043, so the Celltrion launch timing does not appear to reflect much, if any, respect for *US959*.

**D. Although Petitioner Does Not Rely on the Outcome in *Amgen v. BMS* to Rebut PO’s Argument, PO’s Attempts to Distinguish *Amgen v. BMS* Are Misleading**

PO speculates that “Petitioners may contend that *Amgen Inc. v. Bristol-Myers Squibb Co.*, IPR2025-00601, Paper 9 (July 24, 2025) controls and requires the Director decline to exercise his discretion to deny institution of their IPR.” Br., 13-16. Amneal need not rely on *Amgen v. BMS* at least because Amneal offers a

*Sotera* Stipulation, while Amgen did not, thereby eliminating the risk of duplicative litigation. Moreover, the absence of a case schedule here, or even a litigation, speaks for itself. Moreover, contrary to what PO suggests (Br., 14-15), *Amgen v. BMS* neither states nor stands for the proposition that discretionary denial is warranted once a patent dance commences in the absence of litigation.

### **III. THE DIRECTOR SHOULD INSTITUTE TO CORRECT MATERIAL ERRORS DURING PROSECUTION**

“A substantial showing of apparent examiner error can overcome other factors that suggest discretionary denial.” *Magnolia*, 8. *See also Advanced Bionics LLC v. Med-El Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6, 8-9 (Feb. 13, 2020) (precedential). For the reasons discussed above, no factors warrant discretionary denial. As discussed below, examiner error also strongly supports denying PO’s request for discretionary denial under §325(d).

#### **A. The Strong Merits of the Grounds in the Petition Counsel Against Discretionary Denial**

The Petition demonstrates that claims 1, 3, 5, 17-18, and 20-24 are anticipated by *MacGinnitie* (EX1008) and/or *Bégin* (EX1009), or, to the extent these two references do not meet the strict standard for anticipation, are obvious over those references. While *MacGinnitie* and *Bégin* are listed among the over 100 references listed on the face of *US959*, the Office committed error in not using

them in a rejection, as both references anticipate or render obvious claims 1, 3, 5, 17-18, and 20-24. Pet., 34-50.

The Petition also challenges *US959* as obvious over Genentech's own clinical trial protocol, versions of which were published over a year before the patent's earliest possible filing date, in view of other literature teaching a formula that describes the relationship between omalizumab dosage, patient body mass, and disease severity that underlies *US959*. The Petition relies on version 26 of the protocol, titled "Omalizumab as Monotherapy and as Adjunct Therapy to Multi-Allergen OIT in Food Allergic Participants" (*OUtMATCH-V26*, EX1005), which was publicly available on ClinicalTrials.gov on May 2, 2022. Genentech, Inc. is listed as a corroborator. The examiner rejected the claims as anticipated by *Wood* (EX1026) and *CoFAR* (EX1033), both of which discussed the *OUtMATCH* clinical trial, but neither was publicly available more than a year before the earliest possible filing date. EX1004, 105-108.

To gain allowance, in addition to adding *Wood* as an inventor, Genentech argued, with declaration support (*id.*, 122-123) and without presenting arguments on the merits, that *Wood* and *CoFAR* described work of the inventors published during the statutory grace period. *Id.*, 151-154. Genentech misled the examiner by failing to mention that earlier versions of the *OUtMATCH* clinical protocol, including *OUtMATCH-V26* (EX1005), were publicly available before the statutory

grace period. The examiner thus never rejected the claims over *OUtMATCH-V26* itself or *OUtMATCH-V26* in combination with other prior art.

The Notice of Allowance demonstrates that the examiner's understanding of the prior art landscape was misinformed. It states that although the use of omalizumab for treating food allergies was known, the prior art did not disclose the "relationship between the mass of omalizumab administered to the patient, the body mass of the patient, the disease severity as measured by total serum IgE, and the time interval between administrations" and that "data on the pediatric patients encompassed by the claimed methods ... was not present in the prior art." *Id.* 175-176. The teachings in the art relied on by Amneal demonstrate the clear error in the examiner's reasoning. As explained in the Petition, *OUtMATCH-V26* (EX1005) disclosed that patient dosing for children as young as one-year of age was based, like the dosing claimed in *US959*, on patient weight and baseline total serum IgE. Although *OUtMATCH-V26* does not teach how to convert the weight and IgE levels of a patient to a dose, the Petition further explains that *Arasi* (EX1006) and *PI2021* (EX1007) teach that missing element by disclosing a formula for calculating dosage based on those factors. Paper 1, 49. The Petition also provides extensive prior art demonstrating safe use of omalizumab in infants and preschoolers, which provides both motivation and reasonable expectation of success. Paper 1, 57-58, 66; EX1017, 3, 6; EX1040, 1; EX1022, 1.

**B. The Petition Presents New Art and Arguments Under *Advanced Bionics* Step One**

*Advanced Bionics* step one asks whether the same or substantially the same art or arguments previously were presented to the Office. *Becton* factors (a), (b), and (d) are particularly relevant here. *Becton, Dickinson and Company v. B. Braun Melsungen AG*, IPR2017-01586, Paper 8 (Dec. 15, 2017) (precedential as to §III.C.5, first paragraph). All of these factors counsel against discretionary denial.

As explained in Sections III.A., *MacGinnitie* and *Bégin* each anticipate or render obvious claims 1, 3, 5, 17-18, and 20-24. Pet., 34-50. Although they are listed among the over 100 references on the face of *US959*, they were not used in a rejection. As also explained in Section III.C, it was error for the Examiner to allow claims 1, 3, 5, 17-18, and 20-24 over *MacGinnitie* and *Bégin*.

As explained above in Section III.A, *OUtMATCH-V26* (EX1005) discloses all elements of the challenged independent claims other than the relationship between omalizumab dosage and patient weight and baseline total serum IgE. *Arasi* (EX1006) and *PI2021* (EX1007) teach the missing element by disclosing a formula for calculating dosage based on patient weight and baseline total serum IgE. The examiner, recognizing the relevance of the *OUtMATCH* study, rejected the claims as anticipated by *Wood* and *CoFAR*, each of which described the *OUtMATCH* study. PO overcame those rejections by telling the examiner that *Wood* and *CoFAR* were published during the statutory one-year grace period and

described work of the inventors, without telling the examiner that versions of the OUtMATCH study, including *OUtMATCH-V26*, were publicly available more than one year before the earliest effective filing date of *US959*. There is no evidence that the examiner had such a prior art version of the OUtMATCH study, and the examiner never used a prior art version of the OUtMATCH study in any rejection. Had PO brought *OUtMATCH-V26* to the examiner's attention, it could have been combined with *Arasi* and *PI2021* to render obvious all of the claims. Thus, the art and arguments used in the petition are not substantially similar to the art and arguments during prosecution, and *Advanced Bionics* step one does not support discretionary denial.

**C. The Examiner Erred Under *Advanced Bionics* Step Two**

That the examiner did not use *MacGinnitie* and/or *Bégin* in a rejection and did not evaluate *OUtMATCH-V26* or use it in a rejection, weighs heavily against discretionary denial under step two of the *Advanced Bionics* framework. *Ecto World, LLC v. RAI Strategic Holdings, Inc.*, IPR2024-01280, Paper 13, 5 (May 19, 2025) (precedential as to §A). This is especially true given that PO did not explain the relevance of these references, or inform the examiner of the availability of earlier versions of the *OUtMATCH* study that were published more than one year before the earliest effective filing date. *Becton Dickinson* factors (c), (e), and (f) are

relevant to whether an examiner materially erred under the second part of the *Advanced Bionics* framework.

As explained in the Petition, *MacGinnitie* and/or *Bégin* disclose each and every element of claims 1, 3, 5, 17-18, and 20-24 of *US959*, arranged as in the claims. Pet., 34-40, 42-46. Failure to reject those claims over *MacGinnitie* and/or *Bégin* constitutes clear error. For this reason alone, discretionary denial under §325(d) is not appropriate.

Moreover, *OUtMATCH-V26* teaches every element of the independent claims except the claimed dosing regimens based on patient weight and pretreatment total serum IgE. Those teachings include: (a) administering omalizumab to treat human subjects with a food allergy (EX1005, 5); (b) subcutaneous administration (*id.*, 6); (c) administering every two or four weeks (*id.*); (d) 75 and 150 mg unit doses (*id.*); (e) treating subjects 1-55 years of age (*id.*, 5), which includes the claimed subjects weighing  $\geq 10$  kg to  $\leq 15$  kg; (f) dosing based on weight and pretreatment total serum IgE levels per a dosing table (*id.*, 6); and (g) determining total serum IgE before administering a first dose of omalizumab (*id.*). *Arasi* and *PI2021* teach the missing element. Had the examiner rejected the claims as rendered obvious by *OUtMATCH-V26* in view *Arasi* and *PI2021*, Genentech could not have overcome the rejection by arguing that the *Wood* and *CoFAR* references describe work of the inventors and are not prior art

because they fall within the statutory grace period because *OUtMATCH-V26* was publicly available more than a year before *US959* earliest possible filing date.

For all of the reasons above, it was clear error for the examiner not to reject the challenged claims as anticipated by *MacGinnitie* and/or *Begin*, or rendered obvious over *OUtMATCH-V26* combined with *Arasi* and *PI2021*. These errors strongly weigh against discretionary denial. *Tesla Inc. v. Bulletproof Property Management, LLC*, IPR2026-00204, Paper 14, 3-4. Because the second part of the *Advanced Bionics* two-part framework is satisfied, discretionary denial under §325(d) is not appropriate.

#### **IV. INSTITUTION WOULD FURTHER THE ADMINISTRATION’S GOAL OF LOWERING DRUG PRICES**

Challenging *US959* also does not frustrate the purpose of the BPCIA because it serves the public interest of increasing biosimilar market entry and reducing the cost of biologics and healthcare. *E.g., Magnolia*, 6-7. Biosimilars reduce healthcare costs, and the current administration and legislature have strongly favored bringing biosimilars onto the market for that purpose. In 2024 alone, generics and biosimilars saved over \$467 billion. EX1058, 11.

On April 15, 2025, the White House issued Executive Order 14273, titled “Lowering Drug Prices by Once Again Putting Americans First.” EX1059. A Fact Sheet announcing it states that the Order “increases the availability of generics and biosimilars, which can be as much as 80% cheaper than brand alternatives.”

EX1060, 2; *see also* EX1061 (May 12, 2025, Executive Order discussing importance of reducing drug prices). Members of Congress from both sides of the aisle have also introduced bills to increase the availability of biosimilars. EX1062; EX1063. The White House's Executive Order and the legislative efforts all support a public and economic policy of encouraging biosimilar products to enter the market.

This is particularly important here, where PO charges more for Xolair in the U.S. than it does abroad. For example, Xolair is administered every 2 weeks or every 4 weeks (13 or 26 times per year). The list price/annual wholesale acquisition cost of XOLAIR in the United States is \$30,000-\$60,000, about \$2300 per administration. *See, e.g.*, EX1054. In contrast, the indicative price of Xolair 300 mg pre-filled syringes in the UK is about \$700 (£512); EX1055.

## **V. CONCLUSION**

The totality of the evidence and arguments presented support that the Director should decline to exercise his discretion to deny institution and allow the PTAB panel to evaluate the Petition on the merits.

Respectfully submitted,

Dated: September 4, 2026

/ Lora M. Green /  
Lora M. Green, Lead Counsel  
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## **CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. §§42.6(e), the undersigned hereby certifies that a true and correct copy of the foregoing Notice of Petitioner's OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL was served on September 4, 2026, by electronic mail on Patent Owner's lead and backup counsel at the following email addresses:

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Patent Owner has consented to electronic service.

Respectfully submitted,

Date: September 4, 2026

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