UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ATOSSA THERAPEUTICS, INC.,
Petitioner,

v.

JINA PHARMACEUTICALS, INC.,
Patent Owner

Case PGR2026-00015
Patent 12,245,997

PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION FOR ADDITIONAL PAGES FOR ITS REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION

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Petitioner Owner Atossa Therapeutics, Inc. ("Atossa") respectfully submits this Opposition to Jina Pharmaceuticals Inc.'s ("PO") Motion for additional pages ("Mot.," Pap.7). *See* EX3101.[1, 2] PO ignored the rules and belatedly sought additional pages as an alternative to striking the brief only after Atossa identified PO's non-compliance. PO should not be rewarded for disregarding the Board's procedures, and the brief should be stricken. *See* §42.24(a)(2) ("motion to waive… page limits must be granted in advance of filing a motion").

PO offers no explanation for its rule violations and *cites no case* supporting good cause for PO's ask-forgiveness-not-permission approach or supporting 20% more pages to respond to the straightforward issues here. PO's violations have prejudiced Petitioner, whose DD brief opposition is due in approximately two weeks, because Petitioner does not know whether it needs to devote time and resources to responding to PO's overlength DD brief. *See* Interim Director Discretionary Process ("IDDP"), §III.B ("To ensure statutory deadlines are met, the parties may not stipulate to a later due date for a petitioner's opposition brief."). An expansion of PO's brief would eviscerate the "good cause" requirement, encourage similar post-hoc requests, and increase the burden on the Board and parties by encouraging expanding

[1] Sections are from 35 U.S.C./37 C.F.R. as context indicates.

[2] The footnote in PO's DD brief (DD.1 n.1) is not double spaced. *See* §42.6(a)(2)(iii).

briefing beyond what the rules provide by default.

I. PO Has Not Shown Good Cause for Its After-the-Fact Request

The Board's "rules provide[] for page limits" and "any extension of such limits should be few and based on sufficient need." *Amazon.com, Inc. v. Swarm Tech. LLC*, IPR2022-00283, Pap.25, 2-3 (Jan. 30, 2023). PO has not shown that need. PO's DD brief addresses only §325(d) and the strength of the Petition. PO does not address most of the discretionary issues enumerated in §I.B of the IDDP, and spends most of its DD brief (15 pages) on merits briefing. IDDP, §I.B. PO does not show why, *inter alia*, its ***merits*** arguments required 15 pages in the DD brief, or why these issues are different than those in cases in which no additional space is sought or granted. *See* IDDP, §II.C.i ("patent owner should not treat a discretionary denial brief as an additional opportunity for merits briefing").

The Board has denied even ***pre-filing*** requests (that comply with the timing of §42.24(a)(2)) in cases involving more numerous and complex issues. *E.g.*, *Seadrill Ams., Inc. v. Transocean Offshore Deepwater Drilling, Inc.*, IPR2015-01929, Pap.38, 2 (July 26, 2016) (denying additional words for POR to address three grounds, seven asserted references, and "significant discussion of secondary considerations… based upon 15 years of litigation," explaining "[t]he number of grounds, references, and issues… does not appear to be unusual enough to justify deviation" from the word limit); *Amazon.com*, 3 (denying extra pages for reply to motion to

amend where "[t]he number of issues raised… is not unreasonable").

PO's only cases addressing good cause involve ***pre-filing*** requests and highly complex issues not present here. *Apple Inc. v. Masimo Corp.*, IPR2024-00294, Pap.49, 2-3 (Mar. 13, 2025) (granting additional pages for opposition to motion to amend to address "two pages of new limitations," "five new… references," and §112 and priority-date arguments); *Fox Factory, Inc. v. SRAM, LLC*, IPR2016-01876, Pap.29, 2 (Oct. 4, 2017) (granting additional words for POR reply due to "complexity and volume of" objective indicia evidence including nexus, commercial success, licensing, copying, need, and praise); *Dr. Falk Pharma GMBH v. Ellodi Pharms., L.P.*, IPR2025-00052, Pap.23, 2 (Nov. 4, 2025) (granting extra words for reply to POR to address disclaiming of 40 claims and judgment in a related IPR and to address related litigation).

II. Conclusion

PO has not shown good cause and the Board should strike PO's DD brief.

Respectfully Submitted by: Dated: February 24, 2026

/s/ *Megan Raymond* (Reg. No. 72,997)

CERTIFICATE OF PAGE COUNT

The undersigned certifies that the foregoing PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION FOR ADDITIONAL PAGES FOR ITS REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION complies with the three-page limit for this brief.

Dated: February 24, 2026

Respectfully Submitted,

By: /s/ *Megan Raymond*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION FOR ADDITIONAL PAGES FOR ITS REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION has been served in its entirety by causing the aforementioned document to be electronically mailed to the following attorneys of record for the Petitioner listed below:

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