

From: [Director Discretionary Decision](#)
To: [Director Discretionary Decision](#); [Detrixhe, Jonathan I.](#)
Cc: [Scott McBride](#); [Tom Wimbiscus](#); [Manuel A. Franco](#); [PGR2026-00023](#); [Priscilla Gallagher](#); [Riddle, Robert R.](#)
Subject: RE: PGR2026-00023: Request to file 1) corrected discretionary denial opposition; 2) discretionary denial reply; and 3) reply to POPR
Date: Monday, June 29, 2026 11:59:12 AM

Please see correction below.

From: Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Sent: Monday, June 29, 2026 11:11 AM
To: Detrixhe, Jonathan I. <JDetrixhe@ReedSmith.com>; Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Cc: Scott McBride <SMCBRIDE@mcandrews-ip.com>; Tom Wimbiscus <TWIMBISCUS@mcandrews-ip.com>; Manuel A. Franco <MFranco@mcandrews-ip.com>; PGR2026-00023 <PGR2026-00023@mcandrews-ip.com>; Priscilla Gallagher <PGALLAGHER@mcandrews-ip.com>; Riddle, Robert R. <RRiddle@ReedSmith.com>
Subject: RE: PGR2026-00023: Request to file 1) corrected discretionary denial opposition; 2) discretionary denial reply; and 3) reply to POPR

Petitioner is authorized to file a corrected discretionary denial opposition brief that comports with the 20-page limit. As noted below, Petitioner's brief shall not contain any new arguments. Petitioner's corrected brief is due by Thursday, July 2, 2026.

Patent Owner is authorized to file a 2-page reply to Petitioner's Corrected Discretionary Denial Opposition in PGR2026-00023, due no later than Tuesday, July 7, 2026, limited to addressing the matters raised below. Petitioner is authorized to file a 2-page sur-reply, due no later than **Thursday**, July 9, 2026.

Petitioner is authorized to file a 7-page reply to Patent Owner's Preliminary Response in PGR2026-00023, due no later than Monday, July 6, 2026, limited to addressing the matters raised below. Patent Owner is authorized to file a 7-page sur-reply, due no later than Monday July 13, 2026.

From: Detrixhe, Jonathan I. <JDetrixhe@ReedSmith.com>
Sent: Friday, June 26, 2026 3:12 PM
To: Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Cc: Scott McBride <SMCBRIDE@mcandrews-ip.com>; Tom Wimbiscus <TWIMBISCUS@mcandrews-ip.com>; Manuel A. Franco <MFranco@mcandrews-ip.com>; PGR2026-00023 <PGR2026-00023@mcandrews-ip.com>; Priscilla Gallagher <PGALLAGHER@mcandrews-ip.com>; Riddle, Robert R. <RRiddle@ReedSmith.com>
Subject: PGR2026-00023: Request to file 1) corrected discretionary denial opposition; 2) discretionary denial reply; and 3) reply to POPR

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Dear Honorable Director:

Counsel of record have conferred and submit this email jointly.

Pursuant to the Interim Director Discretionary Process, Patent Owner Koppers Performance Chemicals, Inc. and Petitioner Viance, LLC jointly request that Petitioner be authorized to file a corrected Discretionary Denial Opposition (Paper 13) in PGR2026-00023 that complies with the required page limit. In addition, Patent Owner requests authorization to file a two-page Reply to Petitioner's Discretionary Denial Opposition (Paper 13), limited to the RPI issue, and Petitioner requests authorization to file a seven-page reply to Patent Owner's Preliminary Response (Paper 19), limited to the three issues of responding to Petitioner's arguments regarding the BDES agreement, obviousness/teaching away, and written description, further detailed below. Neither Petitioner nor Patent Owner opposes each other's request provided they be granted an equal-length sur-reply.

1. Corrected Discretionary Denial Opposition

Patent Owner has asserted that Petitioner's Discretionary Denial Opposition (Paper 13) exceeds the 20-page requirement because it consists of 32 pages and also violates the formatting rules specified in 37 C.F.R. § 42.6(a)(2)(iii) by the use of single-spaced footnotes. Petitioner has agreed to file a corrected brief that complies with the required page limit (not the former word count limit) and does not introduce new arguments or evidence. See *Atossa Therapeutics, Inc. v. Jina Pharmaceuticals, Inc.*, PGR2026-00015, Paper 9 at 3 (PTAB Mar. 5, 2026) (“[T]he appropriate remedy is ... to file a discretionary denial brief compliant with the required page limit,” which “may not include any new arguments and ... may not present any new evidence.”).

Accordingly, the parties jointly request that Petitioner be authorized to file a corrected version of its Discretionary Denial Opposition (Paper 13) that complies with the required page limit and does not introduce new arguments or evidence.

2. Reply to Petitioner's Discretionary Denial Opposition

Patent Owner requests authorization to file a two-page Reply to Petitioner's Discretionary Denial Opposition (Paper 13) limited to responding to the Opposition's arguments that Petitioner has identified all RPIs. Good cause for this request includes: 1) addressing the applicability of *Sun Pharmaceutical Indus., Inc. v. Biofrontera Inc.*, PGR2026-00021, Paper 12 (Director May 26, 2026), which issued after Patent Owner filed its request for discretionary denial, to the RPI analysis; and 2) responding to Petitioner's arguments regarding the new

evidence on which Petitioner relied to support its RPI arguments, including Ex. 1088 (LLC Agreement), Ex. 1089 (Toll Manufacturing Agreement), Ex. 1090 (Toll Manufacturing Agreement), and Ex. 1091 (Moyes Declaration).

Petitioner does not oppose this request provided it be granted an equal-length sur-reply, which Patent Owner would not oppose.

3. Reply to Patent Owner's Preliminary Response

Lastly, Petitioner requests authorization to file a seven-page reply to Patent Owner's Preliminary Response (Paper 19), limited to responding to Patent Owner's arguments regarding the following three issues: (1) written description with respect to whether the Challenged Claims are entitled to the priority date of subject provisional application; (2) the BDES agreement and its status as prior art; and (3) motivation to combine, including teaching away and reasonable expectation of success. Good cause exist to aid the Board in assessing Patent Owner's unforeseen misstatement of facts, misleading arguments, and application of incorrect legal standards – with respect to the three issues discussed above.

Patent Owner does not oppose this request provided it be granted an equal-length sur-reply, which Petitioner would not oppose.

Counsel for the parties are generally available for a conference call, if needed, Friday June 26 (after 3:30 pm EDT) and Monday June 29 through Wednesday July 1.

Best,

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