

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BIOCON BIOLOGICS, INC. and BIOCON BIOLOGICS LIMITED,
Petitioners,

v.

REGENERON PHARMACEUTICALS, INC.,
Patent Owner.

Case: PGR2026-00039
U.S. Patent No. 12,168,036

PATENT OWNER'S UNOPPOSED MOTION
TO EXCUSE THE LATE FILING OF PATENT OWNER'S EXHIBITS
IN SUPPORT OF ITS DISCRETIONARY DENIAL BRIEF

TABLE OF EXHIBITS

Exhibit	Description
2017	Declaration of Andrew V. Trask (June 11, 2026) (“Trask Decl.”)

TABLE OF AUTHORITIES

CASES

<i>Axis Commc’ns AB v. Avigilon Fortress Corp.</i> , IPR2019-00235, 2019 WL 1096605 (P.T.A.B. Mar. 7, 2019).....	4
<i>Formlabs Inc. v. Envisiontec, Inc.</i> , IPR2017-01258, 2017 WL 4315229 (P.T.A.B. Sept. 22, 2017)	3, 4
<i>Square, Inc. v. 4361423 Canada Inc.</i> , IPR2019-01650, 2020 WL 4809375 (P.T.A.B. Aug. 17, 2020).....	3
<i>Symantec Corp. v. Intellectual Venture I LLC</i> , IPR2016-01433, 2017 WL 3400344 (P.T.A.B. Aug. 8, 2017).....	4
<i>Toshiba Corp. v. Optical Device, LLC</i> , IPR2014-01439, 2015 WL 4243258 (P.T.A.B. July 13, 2015).....	3

OTHER AUTHORITIES

37 C.F.R. § 42.5(c)(3)	2
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Patent Owner Regeneron Pharmaceuticals, Inc. (“Regeneron”) respectfully submits this unopposed motion requesting that the Board excuse the late filing of its Exhibits to Patent Owner’s Discretionary Denial Brief.

I. Statement of Material Facts

1. Patent Owner’s deadline for submitting its Discretionary Denial Brief in this proceeding was June 8, 2026. Ex.2017 (Trask Decl.) ¶ 2.
2. Patent Owner’s counsel prepared the Discretionary Denial Brief and associated Exhibits so that counsel was in a position to file the foregoing upon receipt of the signed Van Plew Declaration (Ex.2013) on the evening of June 8, 2026. *Id.* ¶ 3.
3. Because the declarant, Mr. Daniel Van Plew, was traveling on June 8, 2026, he was unable to finalize the declaration until late in the evening on June 8, 2026. *Id.* ¶ 4.
4. Patent Owner’s counsel received the signed and finalized Van Plew Declaration at 11:04 p.m. on June 8. *Id.* ¶ 5.
5. Upon receipt of the declaration, Patent Owner’s counsel undertook edits to the Discretionary Denial Brief to ensure consistency with the signed Van Plew Declaration. *Id.* ¶ 6.
6. Patent Owner’s counsel served on Petitioners the Discretionary Denial Brief at 11:57 pm and its Exhibits by 11:59 p.m. on June 8. *Id.* ¶ 7. Patent

Owner's counsel filed the Discretionary Denial Brief at 11:58 pm. *Id.* ¶ 8. Patent Owner's counsel was unable to file the associated Exhibits before 12:00 a.m. on June 8. *Id.* ¶ 9. Working diligently to complete the filing, Patent Owner's counsel filed the Exhibits on June 9 at 12:12 a.m. *Id.* ¶ 9.

7. On June 10, 2026, Counsel for Patent Owner contacted counsel for Petitioners, who indicated that Petitioners do not oppose the relief requested by Patent Owner in this motion. *Id.* ¶ 10.

II. The Board Should Excuse Patent Owner's Late Filing in the Interests of Justice

“A late action will be excused on a showing of good cause or upon a Board decision that consideration on the merits would be in the interests of justice.” 37 C.F.R. § 42.5(c)(3). Here, Patent Owner respectfully submits that good cause exists because of the unavailability of Mr. Van Plew to provide a signed and finalized version of the Van Plew Declaration until after 11:00 p.m. on its due date, and the necessity of Patent Owner's counsel having to edit the Discretionary Denial Brief to be consistent with the Van Plew Declaration prior to filing and service. Additionally, even if good cause were not present, Patent Owner respectfully submits that the interests of justice support excusing Patent Owner's late filing. The Board considers three factors in deciding whether the interests of justice would be served by excusing a patent owner's delayed filing: (1) prejudice to the petitioner, (2) prejudice to the patent owner, and (3) the Board and Director's opportunity to

consider the merits of the patent owner's arguments before institution. *Toshiba Corp. v. Optical Device, LLC*, IPR2014-01439, 2015 WL 4243258, at *1 (P.T.A.B. July 13, 2015) (granting request to excuse late filing where filings missed the prescribed deadline by a short period of time); *Formlabs Inc. v. Envisiontec, Inc.*, IPR2017-01258, 2017 WL 4315229, at *1-2 (P.T.A.B. Sept. 22, 2017) (accepting POPR filed one day late); *Square, Inc. v. 4361423 Canada Inc.*, IPR2019-01650, 2020 WL 4809375, at *1 (P.T.A.B. Aug. 17, 2020) (granting request to excuse patent owner's response filed only hours late). Here, all factors support excusing Patent Owner's late filing.

First, Petitioners have not suffered any prejudice as a result of Patent Owner's delay in filing. Petitioners were timely served with the Discretionary Denial Brief and its Exhibits before midnight on the due date. Petitioners do not assert any prejudice, nor do they oppose the relief requested. This factor supports excusing Patent Owner's late filing of its Exhibits.

Second, striking Patent Owner's Exhibits would significantly prejudice Patent Owner by eliminating Patent Owner's opportunity to fully argue in favor of discretionary denial. Patent Owner's Discretionary Denial Brief relies heavily on, among other things, statements in the Van Plew Declaration. Patent Owner would be significantly prejudiced if it were unable to support the arguments in its Discretionary Denial Brief by relying on its Exhibits. Patent Owner's filing was

delayed by approximately 12 minutes. *See Symantec Corp. v. Intellectual Venture I LLC*, IPR2016-01433, 2017 WL 3400344, at *1 (P.T.A.B. Aug. 8, 2017) (finding that refusal to consider reply and exhibit “as a consequence of a few hours’ delay would not be in the interest of justice”). This factor supports excusing Patent Owner’s late filing.

Third, the Director and the Board would benefit from a full record on which to decide institution. *Formlabs*, 2017 WL 4315229, at *2; *see also, e.g., Axis Commc’ns AB v. Avigilon Fortress Corp.*, IPR2019-00235, 2019 WL 1096605, at *1 (P.T.A.B. Mar. 7, 2019) (“[I]nstitution decisions that consider Patent Owner’s arguments will benefit both parties by providing clarity as to the Board’s view of the evidence and arguments.”). Striking the Exhibits would leave the Director with an incomplete record for deciding discretionary denial. This factor thus supports excusing the late filing.

III. Conclusion

For the above reasons, Patent Owner respectfully requests that the Board excuse Patent Owner’s late filing of the Exhibits to its Discretionary Denial Brief.

Date: June 11, 2026

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CERTIFICATE OF SERVICE
(37 C.F.R. § 42.6(e))

The undersigned hereby certifies that on June 11, 2026, I caused true and correct copies of the following materials:

- Patent Owner's Unopposed Motion to Excuse the Late Filing of Patent Owner's Exhibits in Support of Its Discretionary Denial Brief
- Patent Owner's Exhibit List
- Exhibit 2017

to be served via e-mail on the following:

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