

## **Galderma and Q-Med AB v. Allergan: Decision on Institution of Inter Partes Review IPR2014-01417**

Article By:

Intellectual Property Litigation Drinker Biddle

---

Takeaway: A petition for inter partes review may only be considered if it identifies all real parties-in-interest; this is a statutory requirement that defines a “threshold issue” for substantive review of the merits of the challenges presented in the petition.

In its Decision on Institution, the Board denied the Petition for *inter partes* review challenging claims 1-9 and 18-37 of the '475 patent. According to the Board, the Petition failed to identify all real parties-in-interest as required by 35 U.S.C. § 312(a).

The Petition had identified Galderma S.A. and Q-Med AB as the real parties-in-interest. No other entity was listed as a real party-in-interest in the Petition. As found by the Board in related IPR2014-01422, the analysis and conclusions of which were adopted by the Board in the instant proceeding, a number of factors suggested that un-named Nestlé Skin Health S.A. These factors included: “historical evidence for a pattern of control by Nestlé over Galderma; substantial overlap in the Board of Directors for Nestlé S.A. and Nestlé Skin Health S.A.; Nestlé’s assertions that Galderma would ‘form the foundation’ and ‘operate as the pharmaceutical arm’ of its parent, Nestlé Skin Health S.A.; and Mr. Antunes’s *de facto* control over both Nestlé Skin Health S.A. and Galderma[.]”

In short, the Petition did not identify Nestlé Skin Health S.A. as a real party-in-interest, and because the Board found that this entity was in fact a real party-in-interest, the Board concluded that Petitioners had failed to comply with the requirement in 35 U.S.C. § 312(a) to identify all real parties-in-interest. This led the Board to find that the Petition was in violation of the relevant statutory and regulatory requirements; thus, the Petition was denied and trial was not instituted.

***Galderma S.A. & Q-Med AB v. Allergan Industrie, SAS, Allergan USA Inc., Allergan Sales LLC, Allergan Holdings France SAS, Allergan Holdings Limited, Allergan Holdings Inc., Allergan Puerto Rico Holdings Inc., and Allergan Inc., IPR2014-01417***

**Paper 15: Decision Denying Institution of *Inter Partes* Review**

**Dated: March 5, 2015**

**Patent 8,450,475**

**Before: Lora M. Green, Sheridan K. Snedden, and Robert A. Pollock**

**Written by: Pollock**

**Related Proceedings: IPR2014-01422 (involving claims 1-11, 22, 24-38 and 40-41 of related U.S. Pat. No. 8,357,795 B2; *Allergan USA, Inc. v. Medicis Aesthetics, Inc.*, 8:13-cv-01436-AG-JPR (C.D. Cal.)**

© 2025 Faegre Drinker Biddle & Reath LLP. All Rights Reserved.

---

National Law Review, Volume V, Number 120

Source URL: <https://natlawreview.com/article/galderma-and-q-med-ab-v-allergan-decision-institution-inter-partes-review-ipr2014-01>