

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

TRANTAFYLLOS TAFAS,

Plaintiff,

v.

JON W. DUDAS, et al.,

Defendants.

1:07cv846 (JCC/TRJ)

CONSOLIDATED WITH

**SMITHKLINE BEECHAM
CORPORATION,
d/b/a GLAXOSMITHKLINE, et al.,**

Plaintiffs,

v.

JON W. DUDAS, et al.,

Defendants.

1:07cv1008 (JCC/TRJ)

**GLAXOSMITHKLINE’S UNOPPOSED MOTION
FOR AN EXTENSION OF THE PAGE LIMIT**

Pursuant to Rules 7(b)(1) of the Federal Rules of Civil Procedure, and Rule 7(F)(3) of the Civil Rules of the United States District Court for the Eastern District of Virginia, Plaintiffs in case No. 1:07cv1008, SmithKline Beecham plc, SmithKline Beecham Corporation d/b/a GlaxoSmithKline, and Glaxo Group Limited d/b/a GlaxoSmithKline (collectively referred to as “GSK”), move the Court to allow GSK to file an opening brief exceeding the page limit on the following grounds:

1. By order entered November 29, 2007 (*Order*, ¶ 1, Docket # 93), and corrected and amended on December 10, 2007 (*Order*, ¶ 1, Docket # 102), the Court set a forty-page limit for each party's summary judgment brief. GSK now seeks leave to file an opening brief of *forty-five* (45) pages. The other parties (plaintiff in No. 1:07cv846, "Tafas," and defendants, "PTO") do not object to GSK's motion.

2. For "good cause" shown, the Court may permit a party to exceed the page limit otherwise set by local rule or order. *See* E.D.VA.CIV.R. 7(F)(3). Good cause for an enlargement of the limitations set by the local rules cannot be made by "ritualistic recitations" that a case is "complex," or bald assertions that it presents "multiple issues." *Cf. Lykins v. Attorney General*, 86 F.R.D. 318, 318-19 (E.D. Va. 1980) (enforcing local rule limitation on number of interrogatories). Rather, a specific showing of good cause is required. The requisite showing is made below.

3. In an effort to fully inform the Court on the wide range of issues the Court must consider before rendering its summary judgment rulings, GSK has prepared a detailed opening memorandum of law (i) stating the undisputed, material facts, (ii) an analysis of the Final Rules, and (iii) addressing the following legal issues: (A) the standard for relief; (B) the nature and extent of the PTO's rulemaking authority; (C) whether the Final Rules are contrary to statutory law; (D) whether the Final Rules apply retroactively; (E) whether the Final Rules are arbitrary and capricious; (F) whether the Final Rules are impermissibly vague; and (G) whether the final rules are a "logical outgrowth" of the published proposed rules. Manifestly, his case *is* complex, as recognized by the page limit extension already granted and the Court's detailed memorandum opinion granting the preliminary injunction (Docket # 64). GSK has exercised concise writing and disciplined editing, but still finds it necessary to seek an additional five pages.

4. Moreover, the Court will have to consider and decide issues of great public importance, for which thorough briefing will be needed. As Justice Brandies once noted, “A judge rarely performs his functions adequately unless the case before him is adequately presented.” To enable the Court to adequately perform its important judicial review function in this case, the parties’ thorough presentations will be indispensable to a just result.

WHEREFORE, GSK seeks leave to file an opening brief of forty-five (45) pages.

Date: December 20, 2007

Respectfully submitted,

/s/

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Glaxo Group Limited d/b/a GlaxoSmithKline**

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing pleading was filed electronically this 20th day of December 2007 using the CM/ECF system, which will send notification by electronic means to the following counsel of record:

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Notice through the CM/ECF system also will be sent to the proposed *amicus curiae* parties whose motions for leave to appear are still pending.

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