

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

TRIANTAFYLLOS TAFAS,	:	
	:	
	:	
Plaintiff,	:	
	:	
v.	:	1:07cv846 (JCC/TRJ)
	:	
JON W. DUDAS, et al.,	:	
	:	
	:	
Defendants.	:	

CONSOLIDATED WITH

SMITHKLINE BEECHAM	:	
CORPORATION,	:	
d/b/a GLAXOSMITHKLINE, et al.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	1:07cv1008 (JCC/TRJ)
	:	
JON W. DUDAS, et al.,	:	
	:	
	:	
Defendants.	:	

**ORDER GRANTING GLAXOSMITHKLINE’S
MOTION FOR SUMMARY JUDGMENT**

Having considered the Motion for Summary Judgment brought pursuant to Fed. R. Civ. P. 56 of Plaintiffs SmithKline Beecham Corporation and Glaxo Group Limited d/b/a GlaxoSmithKline, and SmithKline Beecham plc (collectively, "GSK") seeking entry of summary judgment that Defendant Jon W. Dudas, in his official capacity as Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, and Defendant United States Patent and Trademark Office ("PTO") (collectively, "Defendants") violated the Administrative Procedure Act ("APA") in enacting its "Changes To Practice for Continued Examination Filings, Patent Applications Containing Patentably Indistinct Claims, and Examination of Claims in Patent Applications" 72 Fed. Reg. 46,716 (Aug. 21, 2007) (to be codified at 37 C.F.R. pt. 1) ("the Final Rules"), the memorandum in support thereof, the declaration and exhibits in support thereof, and all other submissions and arguments concerning the motion, and the entire record before this Court, and having determined that there is no genuine issue of material fact preventing judgment for GSK as a matter of law,

IT IS on this _____ day of _____, 2008, hereby

ORDERED as follows:

1. GSK'S motion for summary judgment is GRANTED;
2. The Final Rules are declared invalid;
3. The Final Rules are vacated as arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law, contrary to constitutional right, power, privilege or immunity, and in excess of statutory jurisdiction, authority or limitations; and
4. Defendants are permanently enjoined from implementing the Final Rules titled "Changes To Practice for Continued Examination Filings, Patent Applications Containing

Patentably Indistinct Claims, and Examination of Claims in Patent Applications,” 72 Fed. Reg. 46,716 (Aug. 21, 2007) (to be codified at 37 C.F.R. pt. 1).

James C. Cacheris
UNITED STATES DISTRICT COURT JUDGE