

UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF VIRGINIA  
(Alexandria Division)

TRIANAFYLLOS TAFAS,

Plaintiff,

v.

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 the UNITED STATES PATENT AND TRADEMARK OFFICE,

Defendants.

CIVIL ACTION: 1:07cv846 (JCC/TRJ)  
and Consolidated Case (below)

SMITHKLINE BEECHAM CORPORATION,

Plaintiff,

v.

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 the UNITED STATES PATENT AND TRADEMARK OFFICE,

Defendants.

**PLAINTIFF DR. TAFAS' MOTION TO COMPEL**

Plaintiff Dr. Triantafyllos Tafas, by undersigned counsel Kelley Drye & Warren LLP, respectfully requests that the Court issue an order compelling Defendants Jon W. Dudas and the United States Patent and Trademark Office to furnish a privilege log identifying any and all documents and information withheld or redacted from the administrative record Defendants produced in this consolidated action based on any claim of any privilege or protection from disclosure and to include in the administrative record any and all non-privileged documents and materials that were considered or reviewed in connection with the proposed and final patent rules that are subject of this action. The grounds for this relief were set forth by Dr. Tafas' counsel

during the hearing in this consolidated action on November 16th and in Dr. Tafas' Supplemental Memorandum Addressing Need for Defendants to Furnish a Privilege Log Concerning Matter Withheld from the Administrative Record Based on Privilege (Dckt. # 73).

WHEREFORE, for all the foregoing reasons, as well as those set forth by Dr. Tafas' counsel at the November 17, 2007 hearing and in Dr. Tafas' Supplemental Memorandum Addressing Need for Defendants to Furnish a Privilege Log Concerning Matter Withheld from the Administrative Record Based on Privilege, the Court should grant this Motion, and order Defendants Jon W. Dudas and the United States Patent and Trademark Office to furnish a privilege log identifying any and all documents and information withheld or redacted from the administrative record Defendants produced in this consolidated action based on any claim of any privilege or protection from disclosure and to include in the administrative record any and all documents and materials that were considered or reviewed in connection with the proposed and final patent rules that are subject of this action. A proposed Order is attached hereto.

Local Rule 37(E) Statement. Pursuant to Local Rule 37(E), counsel for Dr. Tafas certifies that it has conferred in good faith negotiations with counsel for Defendants in an attempt to resolve this dispute through letters and in person conversations, but have been unable to reach an agreement on the issues noted herein.

Respectfully submitted,

/s/ Joseph D. Wilson

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Dated: November 20, 2007

UNITED STATES DISTRICT COURT FOR  
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TRIANAFYLLOS TAFAS,

Plaintiff,

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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 the UNITED STATES PATENT AND TRADEMARK OFFICE,

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Defendants.

**[PROPOSED] ORDER**  
**GRANTING PLAINTIFF DR. TAFAS' MOTION TO COMPEL**

Upon consideration of the Motion by Plaintiff Dr. Tafas' to Compel, the arguments raised by the parties in their briefs and during oral argument, and the entire record in this case, and having found good cause, it is this \_\_\_\_\_ day of \_\_\_\_\_, 2007,

**ORDERED** that the aforesaid Motion is **GRANTED**; and

**IT IS FURTHER ORDERED** that Defendants Jon W. Dudas and the United States Patent shall office shall furnish a privilege log to Plaintiffs in this action separately identifying any and all documents and information withheld or redacted from the administrative record that Defendants produced in this consolidated action based on any claims of any privilege or

protection from disclosure and otherwise comporting with the requirements of Federal Rule of Civil Procedure 26(b)(5)(A) by \_\_\_\_\_; and

**IT IS FURTHER ORDERED** that Defendants Jon W. Dudas and the United States Patent Office shall include in the administrative record any and all non-privileged documents and materials that were reviewed and considered, either directly or indirectly, in connection with the proposed and final patent rules that are subject of this action no later than

\_\_\_\_\_.

\_\_\_\_\_  
Judge,  
United States District Court  
For The Eastern District of Virginia

**CERTIFICATE OF SERVICE**

I hereby certify that on November 20, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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