

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' NOTICE OF MOTION TO COMPEL

PLEASE TAKE NOTICE that on Tuesday November 27, 2007, at 10:00 a.m. or at such earlier or other time as counsel may be heard, Plaintiff Dr. Triantafyllos Tafas ("Tafas") by his counsel, Kelley Drye & Warren LLP, will move the Court for an order compelling Defendants Jon W. Dudas and the United States Patent and Trademark Office to furnish a privilege log 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 (*e.g.*, the attorney-client privilege, deliberative process privilege, work production protection, etc.).

Additionally, Tafas will move the Court on November 27th to order Defendants to produce any and all non-privileged documents and materials Defendants reviewed and considered, either directly or indirectly, in connection with the proposed and final patent rules that are subject of this action.

The Court has already indicated it will address and resolve Tafas' entitlement to this relief at a hearing previously scheduled for November 27th. Thus, while Tafas' demand for production of a privilege log is already *sub-judice*, Tafas submits this Notice and accompanying Motion to Compel out of an abundance of caution to assure the record in this consolidated action is complete and that there is a procedural vehicle in place for the Court to order the previously requested relief. Counsel for Dr. Tafas raised the request for the relief noted above and in the accompanying Motion to Compel orally before Magistrate Judge Jones at the November 16, 2007 hearing in this matter on Defendants' Motion for Issuance of Expedited Briefing Schedule in Lieu of Standard Initial Scheduling Order (Dckt. # 60). At that hearing, the Court invited Tafas to submit further briefing on the matter, which Tafas has done. *See* Dckt. # 73 (Tafas submission). The Court also invited Defendants to submit briefing in this regard, and Defendants' brief is due today. Furthermore, the Court continued the November 16th hearing to November 27th to address these issues, among others.

Respectfully submitted,

/s/ Joseph D. Wilson

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Dated: November 20, 2007

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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