

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

_____)	
TRIANTAFYLLOS TAFAS)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:07cv846 (JCC/TRJ)
)	
JON W. DUDAS, et al.,)	
)	
Defendants.)	
_____)	

CONSOLIDATED WITH

_____)	
SMITHKLINE BEECHAM)	
CORPORATION, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 1:07cv1008 (JCC/TRJ)
)	
JON W. DUDAS, et al.,)	
)	
Defendants.)	
_____)	

**MODIFIED MOTION OF AMICUS CURIAE INTELLECTUAL PROPERTY
 INSTITUTE OF WILLIAM MITCHELL COLLEGE OF LAW
 FOR LEAVE TO FILE A BRIEF IN SUPPORT OF
 THE PLAINTIFFS’ ANTICIPATED MOTIONS FOR SUMMARY JUDGMENT**

The Intellectual Property Institute of William Mitchell College of Law (the “Institute”), by undersigned counsel, moves for leave to file a brief as *amicus curiae* in support of plaintiffs SmithKline Beecham Corporation, SmithKline Beecham PLC, and Glaxo Group Limited’s (collectively referred to as the “GSK Plaintiffs”) and plaintiff Triantafyllos Tafas’ anticipated motions for summary judgment. No oral argument is requested.

The GSK Plaintiffs and Mr. Tafas, by their respective counsel of record, have consented to the filing of this motion and the Institute's appearance as an *amicus*. The defendants have expressly declined to take a position, but agree that no hearing is necessary to decide this motion. The Institute requests that this motion be granted and its amicus brief be due in accordance with the briefing schedule as set by the proceedings in this matter.

The Intellectual Property Institute is part of William Mitchell College of Law, which is a not-for-profit entity. The mission of the Institute is to foster and protect innovation through educational, research, and service initiatives. Among its activities, the Institute advocates for the responsible development and reform of intellectual property law, including the patent laws and the patent system of the United States. A purpose of the Institute is to raise issues and arguments in light of public policy and the best interests of the patent system as a whole.

The Institute's *amicus* brief would address the legality of the United States Patent and Trademark Office's final rules published on August 21, 2007, 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). As *amicus curiae*, the Institute's positions would address the impact of the USPTO's final rules on the structure of the United States patent system, the whether those final rules are consistent with other legal authorities. The Institute expects that points it raises will not substantially overlap those made by the plaintiffs and other *amici*.

WHEREFORE, for the reasons stated herein, the Intellectual Property Institute of the William Mitchell College of Law respectfully requests the Court to grant it leave to file an

amicus brief in support of the plaintiffs' anticipated summary judgment motions. A proposed order is submitted herewith.

Respectfully submitted,

Birch, Stewart, Kolasch and Birch, LLP

Date: November 29, 2007

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of November 2007, I caused a copy of the foregoing Modified Motion of *Amicus Curiae* Intellectual Property Institute of William Mitchell College of Law for Leave to File a Brief in Support of the Plaintiffs' Anticipated Motions for Summary Judgment and accompanying proposed order was electronically filed with the clerk of the Court using the CM/ECF system, which will send a notification of such filing to the following:

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