

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTAS PHARMACEUTICALS LTD.,
Petitioner,

v.

ATOSSA THERAPEUTICS, INC.,
Patent Owner

Case PGR2025-00043
Patent 12,071,391

**CORRECTED PATENT OWNER'S MOTION FOR ADDITIONAL
DISCOVERY
UNDER 37 C.F.R. §42.51(b)(2)**

[REDACTED]

[REDACTED]

LIST OF EXHIBITS

Exhibit	Description
EX2001	ATOSSA THERAPEUTICS, INC. QUARTERLY REPORT FORM 10-Q (March 31, 2025)
EX2002	Atossa Therapeutics Proposes Potentially Groundbreaking Study Aimed at Reducing Interval Breast Cancer in High-Risk Women at AACR 2025 (April 29, 2025)
EX2003	Atossa Therapeutics Announces Plans to Pursue Metastatic Breast Cancer Indication for (Z)-Endoxifen and Continued Engagement with FDA on Additional Indications (March 11, 2025)
EX2004	Financials – Intas Pharmaceuticals Ltd., http://www.intas-pharma.com/financials/
EX2005	Atossa Therapeutics Announces Issuance of Key U.S. Patent Covering Endoxifen (March 08, 2022)
EX2006	Efficacy and Safety of Endoxifen in Bipolar I Disorder Patients, NCT06608641 (Last Updated March 17, 2025), https://clinicaltrials.gov/study/NCT06608641
EX2007	Declaration of Sayem Osman
EX2008	Atossa Covenant Not to Sue
EX2009	Atossa Therapeutics Announces Full Results from Phase 2 KARISMA-Endoxifen Study Demonstrating Statistically Significant Reductions in Mammographic Breast Density (Dec. 11, 2024)
EX2010	Atossa Therapeutics Announces First Quarter 2025 Financial Results and Provides a Corporate Update (May 13, 2025)
EX2011	INTENTIONALLY OMITTED
EX2012	Breast Center Year in Review, An Unmet Need in HR-Positive Endocrine-Resistant Breast Cancer, <i>available at</i> https://jons-online.com/special-issues-and-supplements/2021/2021-year-in-review-breast-cancer/an-unmet-need-in-hr-positive-endocrine-resistant-breast-cancer
EX2013	ATOSSA THERAPEUTICS, INC. ANNUAL REPORT FORM 10-K for the Fiscal Year Ended December 31, 2024
EX2014	U.S. Patent No. 11,572,334
EX2015	Intas Requirements For Resolving Disputes With Atossa (FILED UNDER SEAL)



Exhibit	Description
EX2016	Default Protective Order
EX2017	<i>Intas Pharmaceuticals, Limited v. Atossa Therapeutics, Inc.</i> , IPR2025-00799, Pap.1 (Apr. 3, 2025)
EX2018	<i>Intas Pharmaceuticals, Limited v. Atossa Therapeutics, Inc.</i> , PGR2023-00043, Pap.1 (Aug. 18, 2023)
EX2019	Rishab Gupta & Swarndeeep Singh, <i>Endoxifen Approval for Bipolar in India, A Premature or a Pragmatic Decision?</i> , 43(1) J. CLINICAL PSYCHOPHARMACOLOGY 3 (2023)
EX2020	Zonalta, Why Zonalta?, https://zonalta.in/
EX2021	Atossa Therapeutics Granted Additional Patent Protection for Endoxifen (August 28, 2024)
EX2022	Declaration of Megan Raymond
EX2023	Corrected Covenant Not to Sue
EX2024	December 6, 2025 Collection of Email Communications with Intas's Counsel
EX2025	Declaration of Sayem Osman
EX2026	U.S. Patent No. 12,245,997

TABLE OF CONTENTS

I. Background1

II. Each *Bloomberg* Factor Weighs in Favor of Additional Discovery3

A. *Bloomberg* Factor 1: whether the party requesting discovery is able to provide a specific factual reason for expecting reasonably that the discovery will be useful;4

B. *Bloomberg* Factor 2: whether the requested discovery is solely directed to seeking the other party’s litigation positions and the underlying basis for those positions;.....8

C. *Bloomberg* Factor 3: whether the party requesting discovery is able to reasonably generate the information without the discovery request;....9

D. *Bloomberg* Factor 4: whether the requested discovery is easily understandable; and *Bloomberg* Factor 5: whether the requested discovery is overly burdensome.....9

III. Conclusion10

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>American Simmental Ass'n v. Leachman Cattle of Colorado, LLC</i> , PGR2015-00003, Pap.32 (Sept. 4, 2015)	7
<i>Applications in Internet Time, LLC v. RPX Corp.</i> , 897 F.3d 1336 (Fed. Cir. 2018)	6, 8
<i>Bloomberg Inc. v. Markets-Alert Pty Ltd</i> , CBM2013-00005, Pap.32, 2-3 (May 2, 2013).....	3, 4, 10
<i>Corning Optical Commc 'ns RF, LLC v. PPC Broadband Inc.</i> , IPR2014-00440, Pap.68 (Aug. 18, 2015)	2
<i>First Data Corp. v. Cardsoft, LLC</i> , IPR2014-00720, Pap.8 (Oct. 17, 2014)	7
<i>Luminex Int'l Co., Ltd. v. Signify Holdings B.V.</i> , IPR2024-00101, Pap.20 (Nov. 21, 2024)	6
<i>Qualcomm Inc. v. FedEx Corp. Servs., Inc.</i> , IPR2022-00584, Pap. 86 (Dec. 21, 2022).....	10
<i>RPX Corp. v. Applications in Internet Time, LLC</i> , IPR2015-01750, Pap.11 (Oct. 20, 2015)	8
<i>Samsung Bioepis Co. v. Regeneron Pharms., Inc.</i> , IPR2023-00884, Pap.58 (May 23, 2024).....	9
<i>Streck, Inc. v. Ravgen, Inc.</i> , IPR2021-01577, Pap.14, 12–13 (Feb. 11, 2022)	7
<i>Ventex Co., Ltd. v. Columbia Sportswear N. Am., Inc.</i> , IPR2017-00651, Pap.152 (Jan. 24, 2019).....	8
Other Authorities	
37 C.F.R. §42.224(a).....	3

Patent Trial and Appeal Board Consolidated Trial Practice Guide
(Nov. 2019).....3, 6, 9



Pursuant to the Board’s Order (Pap.16), Patent Owner Atossa Therapeutics, Inc. (“Atossa”) respectfully submits this Motion for Additional Discovery pursuant to 37 C.F.R. §42.51(b)(2) and 35 U.S.C. §316(a)(5),¹ requesting real party-in-interest (“RPI”) related documents from Petitioner Intas Pharmaceuticals Ltd. (“Intas”) responsive to the discovery requests attached as Appendix A.

I. Background

From the outset, Jina Pharmaceuticals, Inc. (“Jina”) has had a real interest in this proceeding, even though Petitioner has tried to obscure its role. Petitioner Intas filed its Petition for post grant review on April 3, 2025, relegating Jina to a laundry list of “other parties who may be interested in the outcome.” Pap.2, 1 (“Other parties who may be interested in the outcome of this PGR include . . . Jina”). In May, Atossa reached out to Intas to discuss potential resolution of this petition and related PTAB proceedings. In response, Intas’s counsel provided a list of settlement terms

[REDACTED]

EX2015. But Jina is not a named RPI.

Intas’s subsequent filings further confirm that Jina is—and has always been—far more than a party who “may” have an interest. In opposing discretionary denial,

¹ Sections are from 35 U.S.C./37 C.F.R. as context indicates, and emphases are added and internal quotations/citations omitted unless noted.

[REDACTED]

Intas characterized Jina as its “partner” and affirmatively acknowledged that Jina “*has its own interest* in the outcomes” of this PGR. Pap.10, 1, 7 n.3, 10. Indeed, Intas’s filings are replete with statements referencing their close relationship in the very subject matter of this proceeding. *See, e.g., id.*, 7 (“Patent Owner seeks to preserve the right to exclude Petitioner Intas Pharmaceuticals (**as well as Jina Pharmaceuticals**) . . . despite **Intas and Jina’s** prior art work”), 7 n.3 (“**Intas and Jina** are separate companies each with an interest in developing endoxifen treatments.”), 9 (“Intas (**and Jina**) are not required to share their highly sensitive ‘commercial interests’ with Atossa”), 10 (“**Intas and Jina** have already invested in pursuing breast cancer treatment, demonstrating their commercial interest in such treatments Intas (**and Jina**) did not request any compensation from Patent Owner simply to drop these proceedings”), 10 n.5 (“Neither **Intas nor Jina** have asserted any patents”); *see also* EX1011 (endoxifen article naming Jina and Intas authors); EX2019, EX2020. And counsel here for Intas also prosecutes patents for Jina. *See* EX2026 (“Assignee: Jina Pharmaceuticals, Inc.” with “Attorney, Agent, or Firm – McAndrews, Held & Malloy, Ltd.”); Pap.1, 2 (identifying McAndrews, Held & Malloy, Ltd. as counsel).

On October 28, 2025, the Director restored *Corning Optical* as precedential, reestablishing the § 312(a) real party-in-interest bar that a petition must identify all real parties-in-interest *as a condition of institution*. *Corning Optical Commc’ns RF*,

LLC v. PPC Broadband Inc., IPR2014-00440, Pap.68 (Aug. 18, 2015). Three days later, Atossa approached Intas to discuss RPI discovery. While Intas contends Intas is the RPI funding and directing this proceeding, Intas refuses to provide any information or assurances beyond this general assertion. For instance, Atossa shared discovery requests like those in Appendix A, but Intas refused to provide any discovery and indicated it would oppose any request for RPI discovery. On November 3, 2025, during this back-and-forth about RPI discovery, post grant review was instituted. Atossa emailed the Board on November 18, 2025, seeking authorization to file a motion for additional discovery. On November 26, 2025, the Board authorized Atossa “to file a motion for additional discovery, limited to [document requests about] whether [Jina] is a [RPI] to this proceeding.” Pap.16, 3. This past week, Intas agreed to add Jina as a named RPI, but refused to acknowledge that Jina is and was an RPI at the time of filing Intas’s petition. EX2024.

II. Each *Bloomberg* Factor Weighs in Favor of Additional Discovery

The standard for additional discovery in a PGR proceeding is good cause.² §42.224(a); *see also Bloomberg Inc. v. Markets-Alert Pty Ltd*, CBM2013-00005,

² The “good cause” standard here is “slightly more liberal” than the “interests of justice” standard applicable in an IPR. Patent Trial and Appeal Board Consolidated Trial Practice Guide (Nov. 2019) (“CTPG”), 24.

Pap.32, 2–3 (May 2, 2013). The Board has identified five factors relevant to whether additional discovery is in the interests of justice. *Id.* at 5. Each factor is met here.

A. *Bloomberg* Factor 1: whether the party requesting discovery is able to provide a specific factual reason for expecting reasonably that the discovery will be useful;

Several facts demonstrate that something “useful”—i.e., information favorable to determining that Jina is an RPI—will be uncovered. *Id.* at 5, 7. To start, Intas stated in its Petition that Jina may be interested in the outcome of this proceeding. Pap.2, 1 (“Other parties who may be interested in the outcome of this PGR include . . . Jina Pharmaceuticals Inc.”). Then, when Atossa reached out to Intas’s counsel to discuss resolution of the pending PTAB proceedings, Intas’s counsel provided terms [REDACTED] Intas. The response set forth [REDACTED] [REDACTED] *See* EX2015. And each enumerated requirement evinces Jina’s interest in the outcome of this proceeding:

[REDACTED] **Petition Withdrawal:** [REDACTED]

[REDACTED]

Patent Validity: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Non-Infringement [REDACTED]

[REDACTED]

Royalty [REDACTED]

[REDACTED]

If Jina had no interest in the outcome here, then Jina would not be [REDACTED]

[REDACTED]

[REDACTED]³ Moreover,

in opposing discretionary denial, Intas repeatedly referenced its “partner[ship]” with Jina and conceded that Jina “*has its own interest* in the outcomes” of this PGR. *See* Pap.10, 1, 7 n.3, 9, 10 n.5. And just last week Intas indicated it intended to add Jina as an RPI but refused to agree Jina is and was an RPI at the time of filing. EX2024.

Intas’s RPI Petition statement, taken together with Intas’s filings, communications, and [REDACTED], demonstrate Jina has an interest in the outcome of this petition and that a relationship involving this proceeding exists between Jina and Intas—

³ The Atossa patent in this PGR relates to the drug endoxifen (*see* EX1001). While the identity of the patent [REDACTED]

[REDACTED]

[REDACTED]

which at a minimum requires [REDACTED]

Because the extent of this relationship is apparently disputed, each discovery request is narrowly tailored to yield additional facts about Jina and Intas's relationship in this proceeding:

RFP 1: The requested documents will reveal the basis for Intas's assertion that "[Jina] may be interested in the outcome." Pap.2, 1. These documents are relevant to determining Jina's role in coordinating, the extent of its coordination, control, and opportunity to control this proceeding. These documents will help address the two questions lying at the heart of the RPI inquiry: "whether a non-party 'desires review of the patent' and whether a petition has been filed at a nonparty's 'behest.'" *Applications in Internet Time, LLC v. RPX Corp.*, 897 F.3d 1336, 1351 (Fed. Cir. 2018) ("AIT") (citing Trial Practice Guide, 77 Fed. Reg. at 48,759).

RFP 2: The requested documents will reveal Jina's role in deciding to file the Petition (in PGR2025-00043), Jina's role in assisting with, contributing to, drafting, supervising, approving, or exerting control over the Petition, the extent of this control, and Jina's role in jointly funding or reimbursing this proceeding. "[A] party that funds and directs and controls an IPR or PGR petition or proceeding constitutes a 'real party-in-interest.'" *CTPG* at 17; *Luminex Int'l Co., Ltd. v. Signify Holdings B.V.*, IPR2024-00101, Pap.20, 9 (Nov. 21, 2024) ("The Board may consider whether an unnamed party is controlling, funding, or directing an IPR") (citing *Uniloc 2017*

LLC v. Facebook Inc., 989 F.3d 1018, 1027-28 (Fed. Cir. 2021); *Wi-Fi One, LLC v. Broadcom Corp.*, 887 F.3d 1329, 1336 (Fed. Cir. 2018)). And the Board has granted similar requests even under the higher IPR standard. *See Streck, Inc. v. Ravgen, Inc.*, IPR2021-01577, Pap.14, 12–13 (Feb. 11, 2022) (granting PO discovery “relating to agreements that [the potential RPI] may assist in, control, or fund the proceeding . . . and to documents sufficient to show what role [the potential RPI] played in deciding to file, approving, controlling, or financing [Petitioner]’s Petition”); *see also American Simmental Ass’n v. Leachman Cattle of Colorado, LLC*, PGR2015-00003, Pap.32, 12 (Sept. 4, 2015) (granting discovery relating to an interested party’s funding of or involvement in the PGR proceedings).

RFP 3: The requested communications will reveal whether Jina and Intas jointly discussed the strengths and shortcomings of the references, combinations of references, PGR strategy, or the like, as would arise in connection with preparing the Petition and settlement discussions. These conversations are relevant to the RPI issue because providing substantive input and analysis to the PGR filing itself and settlement discussions, even if not directly editing the Petition or settlement terms, is evidence of control over the Petition and outcome of this proceeding. *See First Data Corp. v. Cardsoft, LLC*, IPR2014-00720, Pap.8, 6–7 (Oct. 17, 2014) (determining unnamed party was an RPI, because it had controlled or had opportunity to control filing of Petition, based on many factors including communications between

the unnamed party and petitioner about what prior art to assert). Indeed, the Board has granted similarly-worded requests even under the higher IPR standard. *See RPX Corp. v. Applications in Internet Time, LLC*, IPR2015-01750, Pap.11, 4–5 (Oct. 20, 2015) (granting PO discovery on communications between Petitioner and the potential RPI relating to the challenged patents, related IPR proceedings, or litigation, whether by name, code name, or euphemism).

RFP 4: These requested documents will reveal any agreement between Jina and Intas, such as an indemnity or cost-sharing agreement, as it relates to patent proceedings involving Atossa or Atossa patents generally. These agreements would define Jina’s role in these proceedings and determine “whether the [unnamed] party is a clear beneficiary that has a preexisting, established relationship with the petitioner.” *AIT*, 897 F.3d at 1351 (citing Trial Practice Guide, 77 Fed. Reg. at 48,759); *see also Ventex Co., Ltd. v. Columbia Sportswear N. Am., Inc.*, IPR2017-00651, Pap.152, 7–11 (Jan. 24, 2019) (precedential) (terminating IPR and determining unnamed party was a real party in interest based, in part, on evidence of an indemnification agreement between petitioner and the unnamed party).

B. *Bloomberg* Factor 2: whether the requested discovery is solely directed to seeking the other party’s litigation positions and the underlying basis for those positions;

There is no litigation between Atossa and Jina/Intas. Accordingly, Atossa’s requests do not seek to elicit Petitioner’s litigation positions, potential litigation

positions, or their underlying basis. Rather, Atossa seeks to uncover evidence regarding Jina’s role in funding and exercising control over this proceeding, including coordinating and directing settlement discussions with Atossa. This is precisely the type of additional discovery that the Board’s procedures permit. *See, e.g., CTPG* at 28 (“Narrowly focused requests for additional discovery on [identifying real parties-in-interest and secondary evidence of non-obviousness] may, if appropriate, be permitted.”). Because “[i]t is not apparent that any of the requested discovery would inappropriately reveal any litigation position of Patent Owner,” this factor thus weighs in favor of granting additional discovery. *Samsung Bioepis Co. v. Regeneron Pharms., Inc.*, IPR2023-00884, Pap.58, 8 (May 23, 2024).

C. *Bloomberg* Factor 3: whether the party requesting discovery is able to reasonably generate the information without the discovery request;

Atossa has no other means to generate equivalent information, which is “essentially, at [Petitioner Intas’s] fingertips and can be readily produced.” *Samsung Bioepis*, Pap.58, 9. When Atossa shared with Intas similar versions of the attached discovery requests, Intas refused to provide more information about its relationship with Jina in this proceeding and indicated it would oppose any request for RPI discovery. Thus, this additional discovery is the only mechanism by which Atossa can get the information it needs.

D. *Bloomberg* Factor 4: whether the requested discovery is easily understandable; and *Bloomberg* Factor 5: whether the requested discovery is overly burdensome.

Here, the requests are easy to understand, narrowly tailored to reflect Atossa’s need, and would not be burdensome because they are narrowly tailored to a discrete set of communications between Jina and Intas and documents about their working relationship in this proceeding. *Bloomberg*, Pap.32, 5. Moreover, it appears the same law firm represents both Jina and Intas. *See* EX2026 (“Assignee: Jina Pharmaceuticals, Inc.” with “Attorney, Agent, or Firm – McAndrews, Held & Malloy, Ltd.”); Pap.1, 2 (identifying McAndrews, Held & Malloy, Ltd. as counsel). As such, counsel should be able to readily coordinate their collection. Atossa’s limited discovery requests simply seek the underlying funding and control documents that would confirm or refute that assertion. Those materials are uniquely within Petitioner’s possession and should be straightforward to collect. To the extent Petitioners object to discovery based on privilege or work product, Petitioners may provide a detailed privilege log. *See, e.g., Qualcomm Inc. v. FedEx Corp. Servs., Inc.*, IPR2022-00584, Pap. 86, 10–11 (Dec. 21, 2022).

III. Conclusion

For the foregoing reasons, Atossa respectfully requests that the Board grant this Motion for Additional Discovery.

Respectfully Submitted by:
/s/ Megan Raymond (Reg. No. 72,997)

Dated: December 8, 2025

CERTIFICATE OF PAGE COUNT

The undersigned certifies that the foregoing PATENT OWNER'S MOTION FOR ADDITIONAL DISCOVERY 37 C.F.R. §42.51(b)(2) complies with the Board's November 26, 2025 (Pap.16) limiting this motion to 10 pages.

Dated: December 8, 2025

Respectfully Submitted,

By: /s/ Megan Raymond

Megan Raymond (Reg. No. 72,997)

GROOMBRIDGE, WU, BAUGHMAN &
STONE LLP

801 17th Street, NW, Suite 1050

Washington, DC, 20006

P: (202)-505-5878

megan.raymond@groombridgewu.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of PATENT OWNER'S MOTION FOR ADDITIONAL DISCOVERY 37 C.F.R. §42.51(b)(2) has been served in its entirety by causing the aforementioned document to be electronically mailed to the following attorneys of record for the Petitioners listed below:

Alejandro Menchaca
Ben J. Mahon
Amanda C. Jackson
391PGR@mcandrews-ip.com

Dated: December 8, 2025

Respectfully submitted,

By: /Sayem Osman/
Sayem Osman

APPENDIX A

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTAS PHARMACEUTICALS LTD,
Petitioner

v.

ATOSSA THERAPEUTICS, INC.,
Patent Owner

Case PGR2025-00043
Patent 12,071,391

**PATENT OWNER ATOSSA'S
DISCOVERY REQUESTS TO PETITIONER**

Patent Owner Atossa Therapeutics, Inc. (“Atossa”) requests Petitioner Intas Pharmaceuticals, Inc. (“Intas” or “Petitioner”) to respond and produce the following Documents and Things pursuant to the Consolidated Trial Practice Guide (“CTPG”).

I. DEFINITIONS

DEFINITIONS

1. “Patent Owner” means Atossa Therapeutics, Inc. and all of its predecessors (merged, acquired, or otherwise), successors, subsidiaries, parents, sisters, divisions, departments, partnerships, and affiliates thereof, and all of their officers, directors, principals, agents, employees, attorneys, and other persons acting on their behalf.

2. “Petitioner” means Intas Pharmaceuticals, Inc. and all of its predecessors (merged, acquired, or otherwise), successors, divisions, departments, and partnerships thereof, and all of their officers, directors, principals, agents, employees, attorneys, and other persons acting on their behalf.

3. “Jina” means Jina Pharmaceuticals, Inc., and all of its predecessors (merged, acquired, or otherwise), successors, subsidiaries, parents, sisters, divisions, departments, partnerships, and affiliates thereof, and all of their officers, directors, principals, agents, employees, attorneys, and other persons acting on their behalf.

4. “Challenged Patent” means U.S. Pat. No. 12,071,391.

5. As used herein, “communication” means any transmission of information by one or more persons and/or between two or more persons by any means including telephone conversations, letters, facsimiles, instant messages, electronic mail, Internet postings, other computer linkups, written memoranda, and face-to-face conversations.

6. As used herein, “document” shall have the full meaning ascribed to it by the Federal Rules of Civil Procedure and includes the original and every non-identical copy or reproduction, and further is used in a broad sense to refer to any electronic information or any tangible object or thing that contains, conveys, or records information.

7. As used herein, “person” means any natural person or any business, legal, or governmental entity or association.

II. DOCUMENTS AND THINGS REQUESTED

A. REQUESTS FOR PRODUCTION

REQUESTS FOR PRODUCTION NO. 1

Documents related to Jina’s “interest” referenced in Petitioner’s assertion that “[o]ther parties who may be interested in the outcome of this PGR include . . . Jina Pharmaceuticals Inc.” PGR2025-00043, Pap.2, 1.

REQUESTS FOR PRODUCTION NO. 2

Documents sufficient to identify any (a) agreement or understanding that Jina had or has the ability or opportunity to play a role in or (b) communications indicating that Jina has played a role in (i) deciding to file the Petition (in PGR2025-00043); (ii) assisting with, contributing to, drafting, reviewing, supervising, approving, or exerting control over the Petition and its supporting documents; or (iii) funding or reimbursing (in whole or in part, directly or indirectly) this proceeding (including without limitation costs such as filing, attorneys, expert, or success fees).

REQUESTS FOR PRODUCTION NO. 3

Communications between Petitioner and Jina, relating to EX2015, the Challenged Patent, or this PGR proceeding, whether by name, code name or otherwise.

REQUESTS FOR PRODUCTION NO. 4

Documents sufficient to show any agreement or understanding between Petitioner and Jina relating to (a) Atossa, the Challenged Patent, or any patents owned by Atossa; (b) any indemnity, defense, common interest, or cost-sharing provisions relating to defense or challenging of third-party patents (including Atossa's patents and the Challenged Patent) or any litigations and PTAB proceedings (including this PGR).