

2018-1167; -1168; -1169

**United States Court of Appeals
for the Federal Circuit**

CELGENE CORPORATION,
Appellant

v.

LAURA A. PETER, DEPUTY UNDER SECRETARY OF COMMERCE FOR
INTELLECTUAL PROPERTY AND DEPUTY DIRECTOR OF THE UNITED
STATES PATENT AND TRADEMARK OFFICE,
Intervenor.

*Appeal from the United States Patent and Trademark Office,
Patent Trial and Appeal Board in
Nos. IPR2015-01096; IPR2015-01102; IPR2015-01103.*

**CORRECTED BRIEF OF PROFESSOR GREGORY DOLIN, M.D.
AS AMICUS CURIAE IN SUPPORT OF APPELLANT'S
PETITION FOR REHEARING EN BANC**

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October 15, 2019

CERTIFICATE OF INTEREST

Pursuant to Federal Circuit Rules 28(a)(1) and 47.4(a), counsel for *amicus curiae* state the following:

1. The full name of every party or *amicus* represented by us is:

Gregory Dolin

2. The names of the real party in interest represented by us is:

Not applicable

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or *amicus curiae* represented by me are:

Not applicable

4. The names of all law firms and the partners or associates that appeared for the party or *amicus* now represented by me in the trial court or agency or are expected to appear in this court are:

Not applicable

5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal:

None

Dated: October 15, 2019

/s/Gregory Dolin

Counsel for Amicus Curiae

**MOTION OF GREGORY DOLIN, M.D. TO FILE *AMICUS BRIEF* IN
SUPPORT OF APPELLANT’S PETITION FOR REHEARING *EN BANC***

Pursuant to Federal Rules of Appellate Procedure 29 and 35, Professor Gregory Dolin, M.D., respectfully moves the Court for leave to file an *amicus curiae* brief in support of Appellant Celgene Corp.’s (“Celgene”) Petition for Rehearing *En Banc* (the “Petition”). Pursuant to Federal Circuit Rule 27(a)(5), Prof. Dolin contacted counsel for Celgen and counsel for LAURA A. PETER, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office, the Appellee herein, to ascertain whether the parties would oppose the instant motion. Counsel for all parties have indicated that they do not oppose the present motion or the filing of Prof. Dolin’s brief. The parties to this appeal have not contributed to the brief’s preparation or filing.

Professor Dolin is a law professor of law at the University of Baltimore School of Law, who teaches and writes in the area of patent law. As an intellectual property scholar, he is concerned that patent law properly promotes and secures legal protection for patent owners. He has no stake in the parties or in the outcome of the case. His scholarship has specifically and directly focused on the issue raised by the present appeal, *viz.*, whether the application of the post–issuance review proceedings created by the 2011 America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (codified in scattered Sections of 28 and 35 U.S.C. (2012)) to patents that have

preexisted the Act violates the Takings Clause of the United States Constitution. *See* U.S. Const. amend. V.

Professor Dolin has no personal stake in the outcome of this litigation, but his scholarship may help inform the Court as to the importance of the issue raised in the Appellant's petition and the proper resolution of the same.

For these reasons, the proposed *amicus* respectfully submits that the accompanying brief "is desirable" and "the matters asserted [therein] are relevant to the disposition of the case." Fed. R. App. P. 29(b)(2).

Dated: October 15, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on this 15th day of October, 2019, I filed the foregoing with the Clerk of the United States Court of Appeals for the Federal Circuit via the CM/ECF system, which will send notice of such filing to all registered CM/ECF users.

Dated: October 15, 2019

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