

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PHARMATECH SOLUTIONS, INC.  
Petitioner

v.

LIFESCAN SCOTLAND LTD.  
Patent Owner

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Case IPR2013-00247  
Patent 7,250,105

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Before SALLY C. MEDLEY, SCOTT E. KAMHOLZ, and SHERIDAN K. SNEDDEN, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceeding  
*37 C.F.R. § 42.5*

On May 12, 2014, a conference call was held between counsel for the respective parties and Judges Medley, Kamholz, and Snedden. The purpose of the conference call was for Patent Owner to discuss objections to (1) Petitioner's

demonstratives filed May 7, 2014 (Paper 20) and (2) Petitioner's request to file a motion to submit supplemental information (Paper 21).

The final date for briefing in this case was May 1, 2014. Paper 12. After that date, and on May 7, 2014, Petitioner filed a paper requesting authorization to file a motion to submit supplemental information. Along with the request, Petitioner filed the motion and supplemental information. Paper 21; Ex. 1030 and Ex. 1031. Patent Owner objected to the filing of the motion, arguing that Petitioner's submission was not provided within the rules for this proceeding. Petitioner argued that Patent Owner made inconsistent statements in the related litigation that must be brought to the Board's attention and that Patent Owner had a duty of candor to inform the Board of such information. Upon further discussion, Patent Owner represented that it did not object to the Exhibits 1030 and 1031 remaining a part of the record, but that if the motion remained in the record, then Patent Owner should be afforded an opportunity to respond.

Petitioner circumvented the rules by submitting the motion prior to receiving Board authorization to file the motion. It is of no moment that the motion was accompanied by a request. A party must seek authorization to file a motion before it files the motion. *See* 37 C.F.R. § 42.20(b). This is especially so when a party seeks authorization to file a motion along with supplemental information towards the end of the trial. *See* 37 C.F.R. § 42.123(b). Moreover, we were not persuaded by the arguments presented by Petitioner that it would be in the interests-of-justice to consider briefing on the matter presented. Accordingly, the motion to submit supplemental information (Paper 21) will be expunged from the record. The parties and the Board agreed, however, based on the facts of this case that the Exhibits 1030 and 1031 shall remain a part of the record. However, no arguments may be made during the hearing regarding the exhibits.

*Petitioner's Demonstratives*

Petitioner's demonstratives submitted on May 7, 2014 contained information directed to the supplemental information. As explained above, the parties may not argue the propriety of Exhibits 1030 and 1031. Accordingly, Petitioner resubmitted a new set of demonstratives on May 12, 2014 removing references to the supplemental information.

It is

ORDERED that the motion filed on May 7, 2014 (Paper 21) be expunged;  
FURTHER ORDERED that the Petitioner's Demonstratives filed May 7, 2014 (Paper 20) be expunged.

IPR2013-00247  
Patent 7,250,105

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