

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ACCORD HEALTHCARE, INC., USA  
Petitioner

v.

ELI LILLY & COMPANY  
Patent Owner

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Case IPR2013-00356  
Patent 7,772,209

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Before Andrew Kellogg, *Trial Paralegal*

NOTICE OF FILING DATE ACCORDED TO PETITION  
AND  
TIME FOR FILING PATENT OWNER PRELIMINARY RESPONSE

The petition for *inter partes* review in the above proceeding has been accorded the filing date of June 14, 2013.

Administrative Patent Judge Scott E. Kamholz has been designated to manage the proceeding. 37 C.F.R. § 42.5.

A review of the petition identified the following defect(s):

Improper usages of claim charts: Although claim charts are permitted, the purpose of claim charts is to assist petitioners to specify where each claim limitation is found in the prior art references relied upon. Claim charts should be

presented in a readable manner and be free from attorney argument. Presenting claim limitations and prior art teachings in a confusing format without appropriate spacing between claims creates inefficiency and circumvents the 60-page limit set forth in 37 C.F.R. § 42.24.

Claim Construction: Petitions must identify “[h]ow the challenged claim is to be construed.” 37 C.F.R. § 42.104(b)(3). In most cases, claim construction is an important step in the determination of whether the challenged claims are unpatentable over the cited prior art. In the instant petition no individual claim terms are given specific construction.

Exhibit Page Numbers: When exhibits are papers, each page must be numbered in sequence. 37 C.F.R. § 42.63(d)(2)(i).

Petitioner must correct the defect(s) within **FIVE BUSINESS DAYS** from this notice. Failure to correct the defect(s) may result in an order to show cause as to why the Board should institute the trial. No substantive changes (e.g., new grounds) may be made to the petition.

Patent Owner may file a preliminary response to the petition no later than three months from the date of this notice. The preliminary response is limited to setting forth the reasons why the requested review should not be instituted. Patent Owner may also file an election to waive the preliminary response to expedite the proceeding. For more information, please consult the Office Patent Trial Practice Guide, 77 Fed. Reg. 48756 (Aug. 14, 2012), which is available on the Board Web site at <http://www.uspto.gov/PTAB>.

Patent Owner is advised of the requirement to submit mandatory notice information under 37 C.F.R. § 42.8(a)(2) within 21 days of service of the petition.

The parties are encouraged to use the heading on the first page of this Notice for all future filings in the proceeding.

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The parties are advised that under 37 C.F.R. § 42.10(c), recognition of counsel *pro hac vice* requires a showing of good cause. The parties are authorized to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c). Such motions shall be filed in accordance with the “Order -- Authorizing Motion *for Pro Hac Vice* Admission” in Case IPR2013-00010 (MPT), a copy of which is available on the Board Web site under “Representative Orders, Decisions, and Notices.” Any motion for *pro hac vice* admission filed by the parties shall also indicate that the person sought to be admitted will be subject to the USPTO Rules of Professional Conduct. *See* Changes to Representation of Others Before the United States Patent and Trademark Office; Final Rule, 78 Fed. Reg. 20180 (Apr. 3, 2013) (effective May 3, 2013).

The parties are reminded that unless otherwise permitted by 37 C.F.R. § 42.6(b)(2), all filings in this proceeding must be made electronically in the Patent Review Processing System (PRPS), accessible from the Board Web site at <http://www.uspto.gov/PTAB>.

If there are any questions pertaining to this notice, please contact Andrew Kellogg at 571-272-5366 or the Patent Trial and Appeal Board at 571-272-7822.

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