

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SEQUENOM, INC.
Petitioner

v.

THE BOARD OF TRUSTEES OF
THE LELAND STANFORD JUNIOR UNIVERSITY
Patent Owner

Case IPR2013-00390
Patent 8,195,415 B2

Before LORA M. GREEN, FRANCISCO C. PRATS, and SCOTT E. KAMHOLZ,
Administrative Patent Judges.

GREEN, *Administrative Patent Judge.*

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

An conference call was held on Friday, February 21, 2014, among R. Danny Huntington, representing Patent Owner; Steven O'Connor, representing Petitioner; and Judges Green, Prats, and Kamholz. A court reporter was present on the call, and Petitioner has filed a transcript of the call as Exhibit 1014.¹

Patent Owner requested the call to discuss an extension of Due Date 1. In particular, Patent Owner explained that it was seeking an extension of time to obtain a deposition to cross-examine Dr. Stacey Bolk Gabriel. According to Patent Owner, it had sent an e-mail to Petitioner seeking to schedule the deposition around the interference hearing between the same parties being held at the Board on Tuesday, February 25, 2014. Patent Owner had also submitted a string of e-mails before the conference call demonstrating it had sought to schedule a deposition to cross-examine Dr. Gabriel prior to the Due Date 1, February 24, 2014, when the Patent Owner response was due. Petitioner responded that Patent Owner had delayed in scheduling the deposition, waiting until February 6, 2014, to reach out to Petitioner to schedule the deposition.

During the conference, the Board noted that Petitioner had relied heavily on the Declaration of Dr. Gabriel in its Petition for *Inter Partes* Review. The Board also noted that Patent Owner was not planning on filing a motion to amend, so that there was room in the schedule to accommodate the deposition of Dr. Gabriel. The parties were advised of the Board's preference for the parties to reach an agreement regarding the cross-examination of Dr. Gabriel, as well as the date for filing of Patent Owner's response. Additionally, in view of Petitioner's heavy reliance on Dr. Gabriel's Declaration in support of its Petition, and the uncertainty as to the amount of weight to be accorded to the Gabriel Declaration in the absence

¹ This order summarizes the statements made during the conference call. A more detailed record may be found in the transcript.

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of cross-examination, the Board advised the parties that it would be in the interest of justice as well as their mutual best interests to reach an agreement which would enable the Board to receive and consider the testimony and cross-examination of Dr. Gabriel.

Accordingly, it is:

ORDERED that the parties shall promptly endeavor to reach an agreement as to a date for the cross-examination of Dr. Gabriel, as well as the date for Patent Owner to file its response to the Petition (DUE DATE 1), and the date for Petitioner to file its reply to Patent Owner's response to the Petition (DUE DATE 2);

FURTHER ORDERED, upon reaching such agreement, the parties shall file a stipulation setting forth the proposed new dates for any and/or all of DUE DATES 1-3.

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