

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AKER BIOMARINE AS
Petitioner

v.

NEPTUNE TECHNOLOGIES AND BIORESSOURCES INC.
Patent Owner

Case IPR2014-00003
Patent 8,278,351

Before LORA M. GREEN, JACQUELINE WRIGHT BONILLA, and
SHERIDAN K. SNEDDEN, *Administrative Patent Judges*.

GREEN, *Administrative Patent Judge*.

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

A conference call was held on Wednesday, April 23, 2014, among Amanda Hollis and John Mitchell Jones, representing Petitioner; Stephen Altieri, representing Patent Owner; and Judges Green, Bonilla and Snedden.

Petitioner requested a call to discuss a motion to submit supplemental evidence pursuant to 37 C.F.R. § 42.123, noting that the deadline set forth in the Rule for doing so is April 24, 2014. In particular, Petitioner desires to submit the following four items as supplemental evidence on the grounds that they are relevant to an argument advanced by Patent Owner in connection with a heating step used in the prior art Beaudoin process: Deposition of Dr. Jaczynski (Patent Owner's expert), statement of Dr. van Breemen (Petitioner's expert), Deposition of Dr. White (Patent Owner's expert) and Deposition of Dr. Sampalis (inventor of patent at issue). Petitioner noted that the parties were involved in proceedings before the ITC, and the foregoing items were generated in connection with those proceedings.

Patent Owner objects to the submission of the Deposition of Dr. Sampalis on the ground that the deposition transcript contains confidential information. Moreover, as the deposition transcript is voluminous, Patent Owner argues that it is not a simple matter to determine those portions of the transcript that contain confidential information. Patent Owner also desires to work out a global understanding between the parties regarding the handling and use of this transcript as well as documents of a similar nature from ITC action Investigation No. 337-TA-877. In addition to the foregoing, Patent Owner requested guidance regarding the timing for submission of evidence prior to the opening of discovery.

The panel noted that there is no reason to file the above-mentioned evidence as supplemental information, as we will not independently look at the evidence, but will only consider it to the extent that it is relied upon by a party in its papers.

Case IPR2014-00003
Patent 8,278,351

Thus, Patent Owner may submit, with its Response, evidence that it discusses and relies upon in that paper. Such action will also provide the parties time to work out the confidentiality issues between themselves.

Accordingly, it is

ORDERED that Petitioner is not authorized to submit supplemental evidence at this time.

Case IPR2014-00003
Patent 8,278,351

PETITIONER:

J. Mitchell Jones
Casimir Jones SC
jnjones@casimirjones.com

Amanda Hollis
Kirkland & Ellis
amanda.hollis@kirkland.com

PATENT OWNER:

Stephen L. Altieri
J. Dean Farmer
Cooley LLP
saltieri@cooley.com
dfarmer@cooley.com