

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NOVEN PHARMACEUTICALS, INC.
and MYLAN PHARMACEUTICALS INC.,
Petitioner,

v.

NOVARTIS AG and LTS LOHMANN THERAPIE-SYSTEME AG,
Patent Owner.

Case IPR2014-00549¹ (Patent 6,316,023 B1)
Case IPR2014-00550² (Patent 6,335,031 B1)³

Before FRANCISCO C. PRATS and ERICA A. FRANKLIN,
Administrative Patent Judges.

FRANKLIN, *Administrative Patent Judge.*

ORDER
Consolidated Oral Hearing
37 C.F.R. § 42.70

¹ Case IPR2015-00265 has been joined with this proceeding.

² Case IPR2015-00268 has been joined with this proceeding.

³ This order addresses issues common to both cases. The parties are authorized to use this style heading when filing the same paper in multiple proceedings, but must include a footnote attesting that “the word-for-word identical paper is filed in each proceeding identified in the heading.”

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IPR2014-00550 (Patent 6,335,031 B1)

Petitioner and Patent Owner each have requested a consolidated oral hearing pursuant to 37 C.F.R. § 42.70. Papers 41 and 47 (IPR2015-00549); Papers 40 and 46 (IPR2015-00550). The requests for a consolidated oral hearing are *granted*, with the understanding that the hearing and content of each party's oral argument will be in accordance with the remainder of this Order. Oral arguments will commence at 1:00 PM Eastern Time on June 2, 2015, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

Petitioner and Patent Owner each will have one hour to present arguments. Petitioner bears the ultimate burden of proof that the claims at issue in this review are unpatentable. Petitioner will, therefore, open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial. Patent Owner will then respond to Petitioner's arguments. Petitioner may reserve time to reply to arguments presented by Patent Owner.

The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis. The Board will provide a court reporter, and the transcript shall constitute the official record of the hearing.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least five business days before the hearing. The Board requests that such exhibits be filed at the Board at least five business days before the hearing. The parties must file any objections to the demonstratives with the Board at least two business days before the hearing. Any objection to demonstrative exhibits that is not timely presented will be considered waived. The objections should identify with particularity which demonstratives are

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subject to objection, and include a short (one sentence or less) statement of the reason for each objection. No argument or further explanation is permitted. The Board asks the parties to confine demonstrative exhibit objections to those identifying egregious violations that are prejudicial to the administration of justice. The Board will consider the objections and schedule a conference if deemed necessary. Otherwise, the Board will reserve ruling on the objections until after the oral argument. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB January 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits. The parties are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to ensure the clarity and accuracy of the reporter's transcript.

The Board expects lead counsel for each party to be present in person at the oral hearing. Any counsel of record, however, may present the party's argument. If either party anticipates that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

Any special requests for audio visual equipment should be directed to Trials@uspto.gov. If the request is not received timely, the equipment may not be available on the day of the hearing.

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Accordingly, it is

ORDERED that oral arguments in this proceeding shall take place beginning at 1:00 PM Eastern Time on June 2, 2015, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria; and

FURTHER ORDERED that the parties are authorized to file objections to demonstrative exhibits no later than two business days before the hearing, and any objection not timely presented shall be deemed waived.

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