

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ENZYMOTEC LTD. and ENZYMOTEC USA, INC.  
Petitioner

v.

NEPTUNE TECHNOLOGIES AND BIORESSOURCES INC.  
Patent Owner

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Case IPR2014-00556  
Patent 8,278,351

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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 Thursday, June 12, 2014, among Elizabeth Holland, representing Petitioner in this case, Enzymotec Ltd. and Enzymotec USA, Inc. (“Enzymotec”); Amanda Hollis, representing Petitioner in IPR2014-00003, Aker Biomarine AS (“Aker”); Steve Altieri, representing Patent Owner in both cases, Neptune Technologies & Bioresources, Inc, (“Neptune”); and Judges Green, Bonilla, and Snedden. A court reporter was present on the call, and a transcript of the call will be filed by Patent Owner. Enzymotec requested the call to discuss obtaining authorization to file a short reply to Patent Owner’s Opposition to Enzymotec’s Motion for Joinder (Paper 11), as well as to request guidance as how Enzymotec should apprise the Board as to the agreement they have reached with Aker as to how the two Petitioners will cooperate in the event that the instant proceeding is joined with IPR2014-00003.

We began with a discussion of Neptune’s Motion for Additional Discovery in IPR2014-00003 (IPR2014-00003, Paper 55). In Aker’s Opposition to that Motion (IPR2014-00003, Paper 61), Aker stated that the parties had conferred, and Aker had agreed to produce the requested laboratory notebooks and reports. *Id.* at 2. Thus, according to Aker, Neptune’s Motion for Additional Discovery should be denied as moot. *Id.* at 6. After our inquiry during the conference call, Neptune agreed that an agreement had been reached between itself and Aker regarding the additional discovery. We thus deny as moot Neptune’s Motion for Additional Discovery in IPR2014-00003.

We also noted that the panel had a conflict with the current oral hearing date in IPR2014-00003, currently scheduled for October 21, 2014 (IPR2014-0003, Paper 23), and asked if any of the parties had an issue with rescheduling the oral hearing date, assuming an oral hearing is requested, to Friday, October 17, 2014. All three parties indicated that they were not aware of any potential conflicts with

that hearing date. Thus, DUE DATE 7 in IPR2014-00003 is moved from Tuesday, October 21, 2014, to Friday, October 17, 2014.

We then turned to the reasons as to why Enzymotec had requested the call. As to Enzymotec's request to file a reply to Patent Owner's Opposition to Enzymotec's Motion for Joinder (Paper 11) in the instant proceeding, Enzymotec noted that Neptune argued in its Opposition that joinder would allow Enzymotec to evade its contractual obligations. Paper 11, 10. We noted that we would not consider issues of contract law in determining whether joinder was appropriate under the statutes and regulations that govern *inter partes* review. Accordingly, Enzymotec stated it no longer wished to seek authorization to file a reply to Neptune's Opposition for joinder.

Enzymotec also inquired as to the best way to inform the Board as to the agreement they have reached with Aker as to how the two Petitioners will cooperate in the event that the instant proceeding is joined with IPR2014-00003. We encouraged the parties to file with the Board a joint stipulation setting forth the agreement as to how the two Petitioners will cooperate, in the event the Motion for Joinder is granted.

Accordingly, it is

ORDERED that Patent Owner's Motion for Additional Discovery in IPR2014-00003 (Paper 55) is dismissed as moot;

FURTHER ORDERED that DUE DATE 7 in IPR2014-00003 is moved from October 21, 2014, to October 17, 2014;

FURTHER ORDERED that Enzymotec is not authorized to file a reply to Patent Owner's Opposition to Enzymotec's Motion for Joinder (Paper 11) in the instant proceeding;

FURTHER ORDERED that Enzymotec and Aker may jointly file a

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stipulation setting forth their agreement as to how they will cooperate in the event that the instant proceeding is joined with IPR2014-00003; and

FURTHER ORDERED that a copy of this order will also be entered into the record in IPR2014-00003.

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