UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PHIGENIX, INC.
Petitioner

v.

IMMUNOGEN, INC.
Patent Owner

Case IPR2014-00676
Patent 8,337,856 B2

PETITIONER PHIGENIX, INC.'S REPLY TO PATENT OWNER IMMUNOGEN, INC'S PATENT OWNER RESPONSE TO THE PETITION

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I. Patent Owner ("PO")'s Response Fails To Overcome The Strong *Prima Facie* Case Of Obviousness

The combination of Chari 1992 (Ex. 1012) and the HERCEPTIN® Label (Ex. 1008) teaches or suggests each and every limitation recited in Claims 1-8 of U.S. Patent No. 8,337,856 ("the '856 Patent"). Chari 1992 discloses an immunoconjugate comprising a maytansinoid conjugated to an anti-ErbB2-antibody (Ex. 1012, Fig. 2) as recited in Claim 1. Chari 1992 also discloses that the maytansinoid is DM1 and that the antibody is chemically linked to the maytansinoid *via* a disulfide or thioether group (Ex. 1012, Fig. 2), as recited in Claim 2 of the '856 Patent. The immunoconjugate of Chari 1992 may comprise from 3-5 maytansinoid molecules per antibody molecule (Ex. 1012, p. 129, bottom right col., Table 2), as recited in Claim 3 of the '856 patent. The antibody and the maytansinoid were conjugated by a chemical linker selected from SPDP or SMCC (Ex. 1012, p. 128, bottom right col., Fig. 2), as recited in Claims 4 and 6-8 of the '856 Patent.

While Chari 1992 expressly suggests humanizing the murine antibody, Chari 1992 does not explicitly disclose huMAB4D5-8 (recited in Claim 1 of the '856 Patent) or a pharmaceutically acceptable carrier (recited in Claim 5 of the '856 Patent). However, the HERCEPTIN® Label describes the clinical use of huMAB4D5-8 (*i.e.*, HERCEPTIN®), which is described as being indicated for the

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