

EXHIBIT A

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

PHIGENIX, INC.'S OBJECTIONS TO EVIDENCE

Petitioner Phigenix, Inc. (“Phigenix”) objects under Federal Rules of Evidence (“FRE”) and 37 C.F.R. § 42.64(b)(1) to the admissibility of Exhibits 2041, 2062, 2072, 2073, 2083, 2084, 2103, 2105, 2216, 2131, 2133, 2134, 2147, 2216, 2218, 2220, 2240, 2241, 2242, 2243, 2244, 2245, 2247, 2252, 2253, 2254, 2256, 2257, 2258, 2259, 2260, 2261, 2266, 2267, 2268, 2269, 2270, 2271, 2275, 2293, 2298, 2303, 2309, 2319, 2320, 2342, 2344, 2345, 2346 and Exhibits 2127, 2204, 2226-2238, 2318, 2325, 2334-2335, and 2340-2341 and Exhibits 2262-2265 (“the Challenged Exhibits”), served by Patent Owner ImmunoGen, Inc. (“ImmunoGen”) on January 22, 2013, with its Patent Owner’s Response under 37 C.F.R. § 42.10. Phigenix serves ImmunoGen with these objections to provide notice to ImmunoGen that Phigenix may move to exclude the Challenged Exhibits under 37 C.F.R. § 42.64(c), or if deemed appropriate request that the Board grant leave to file a motion to strike inadmissible evidence, unless ImmunoGen cures the defects of the Challenged Exhibits identified herein.

I. Identification of Challenged Exhibits and Grounds for Objections

1) Exhibit 2041

Exhibit 2041 purports to be a photocopy of a book chapter entitled “Hepatotoxic Effects of Oncotherapeutic and Immunosuppressive Agents.”

Although the pages of the photocopy appear to be consecutively numbered from

the original, IMMUNOGEN 2041, pg. 3 appears to lack any pagination number. Therefore, Phigenix objects that the foundation of Exhibit 2041 cannot be discerned, since this page appears to be not from the original. Phigenix objects to Exhibit 2041 because Exhibit 2041 does not appear to be a “duplicate” as defined by FRE 1001(e) insofar as the exhibit is not “a copy. . . which accurately reproduces the original.” Thus, under FRE 1003, Exhibit 2041 is inadmissible because it is not a “duplicate.” In absence of authentication, Exhibit 2041 is also inadmissible as hearsay under FRE 802 and it is not qualified to be the basis for an expert opinion under FRE 703.

2) Exhibit 2062

Exhibit 2062 purports to be a photocopy of a chart of “Representative Clinical Trials of Immunoconjugates as Anti-Solid Tumor Agents.” There is no indication of the origin or creator of Exhibit 2062. Therefore, Exhibit 2062 lacks any foundation for being a chart of “Representative Clinical Trials.” Facially, it appears to be attorney-work product. In particular, Exhibit 2062 relies on Exhibits 2309, 2293 and 2298, which are meeting abstracts not subject to peer review prior to publication and as such inadmissible as hearsay under FRE 802. In addition, Exhibits 2309, 2293 and 2298 are inadmissible because they are not qualified to be the basis for an expert opinion under FRE 703. Therefore, Phigenix objects that

Exhibit 2062 is inadmissible as hearsay under FRE 802 and for failure to produce underlying information under FRE 1006. In addition, Exhibit 2062 is inadmissible because it is not qualified to be the basis for an expert opinion under FRE 703. Exhibit 2062 is also inadmissible under FRE 401/402 because it lacks relevance and probative value.

3) Exhibit 2072

Exhibit 2072 purports to be a photocopy of an online news report from “European Biotechnology News.” This press release has not been authenticated by an employee or representative of “European Biotechnology News.” Therefore, Phigenix objects that the foundation of Exhibit 2072 cannot be discerned. Phigenix objects to Exhibit 2072 because Exhibit 2072 does not appear to be a “duplicate” as defined by FRE 1001(e) insofar as the exhibit is not “a copy. . . which accurately reproduces the original.” Thus, under FRE 1003, Exhibit 2072 is inadmissible because it is not a “duplicate.” Phigenix objects that Exhibit 2072 is inadmissible as hearsay under FRE 802. In addition, Exhibit 2072 is inadmissible because it is not qualified to be the basis for an expert opinion under FRE 703. Exhibit 2072 is also inadmissible under FRE 401/402 because it lacks relevance and probative value.

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