

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

Before FRANCISCO C. PRATS, JACQUELINE WRIGHT BONILLA, and
ZHENYU YANG, *Administrative Patent Judges*.

BONILLA, *Administrative Patent Judge*.

ORDER
Trial Hearing
35 U.S.C. § 316(a)(10)

Petitioner, Phigenix Inc., and Patent Owner, ImmunoGen, Inc., each requested oral argument pursuant to 37 C.F.R. § 42.70(a). Papers 26 and 27. The requests are *granted*. The hearing will commence at 2:00 PM ET, on Thursday, July 9, 2015, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

Each party will have a total of forty-five (45) minutes to present arguments. Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue are unpatentable. Thus, Petitioner will proceed first to present its case with regard to the challenged claims on which basis we instituted trial. Thereafter, Patent Owner will respond to Petitioner's case. Petitioner may reserve some of its argument time to respond to Patent Owner's presentation.

Demonstratives are aids in support of oral argument and are not evidence in this proceeding. They will not become part of the official record of this review other than via the transcript of oral argument. Under 37 C.F.R. § 42.70(b), the parties shall serve any demonstrative exhibits upon each other at least five business days prior to the hearing date. The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board at least five business days prior to the hearing by emailing them to Trials@uspto.gov. The parties shall *not* file any demonstrative exhibits in this proceeding without prior authorization from the Board. A hard copy of the demonstratives should be provided to the court reporter at the hearing.

The parties may refer to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033 (PTAB October 23, 2013) (Paper 118), and *St. Jude Medical, Cardiology Div., Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65) regarding the appropriate content of demonstrative exhibits. Any issue regarding demonstrative

exhibits should be resolved at least two business days prior to the hearing by way of a joint telephone conference call to the Board. The parties are responsible for requesting such a conference sufficiently in advance of the hearing to accommodate this requirement. Any objection to demonstrative exhibits that is not timely presented will be considered waived.

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 reporter's transcript will constitute the official record of the hearing. The parties are reminded that each presenter must identify clearly and specifically each demonstrative exhibit, e.g., by slide or screen number, referenced during the oral hearing to ensure the clarity and accuracy of the reporter's transcript.

The Board expects lead counsel for each party to be present at the hearing, although any counsel of record may make the presentation. If either party anticipates that its lead counsel will not attend 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.

Requests for audio-visual equipment are to be made 5 days in advance of the hearing date. The request is to be sent to Trials@uspto.gov. If the request is not received timely, the equipment may not be available on the day of the hearing.

It is

ORDERED that oral arguments in this proceeding shall take place beginning at 2:00 PM Eastern Time on Thursday, July 9, 2015, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

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