

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COALITION FOR AFFORDABLE DRUGS II LLC,
Petitioner,

v.

NPS PHARMACEUTICALS, INC.,
Patent Owner.

Cases IPR2015-00990 and IPR2015-01093
(Patent 7,056,886 B2)¹

Before LORA M. GREEN, JACQUELINE WRIGHT BONILLA, and
SHERIDAN K. SNEDDEN, *Administrative Patent Judges*.

SNEDDEN, *Administrative Patent Judge*.

DECISION
Patent Owner's Request for Rehearing
37 C.F.R. § 42.71

¹ This order addresses issues that are the same in the identified cases. We exercise our discretion to issue one order to be filed in each case. The parties are authorized to use this style heading when filing a single paper in each proceeding, provided that such heading includes a footnote attesting that "the word-for-word identical paper is filed in each proceeding identified in the heading."

INTRODUCTION

NPS Pharmaceuticals, Inc., (“Patent Owner”) filed a Motion for Additional Discovery (“Motion”) from Coalition for Affordable Drugs II LLC (“Petitioner”) regarding whether the Petitions at issue should have identified additional parties (i.e., other “Funders”) as being real parties-in-interest. IPR2015-00990, Paper 9; IPR2015-01093, Paper 8 (“Mot.”). We granted, in part, Patent Owner’s Motion authorizing

additional discovery only as to any agreements, in the possession of Petitioner, relating to the control or ability to control any aspect of the current proceeding by a party not designated as Petitioner or a real party-in-interest in the Petition. Such agreements include those indicating that any person or party (other than Petitioner or designated real parties-in-interest) provided direction to, or had the authority to provide direction to, Petitioner or its counsel in relation to this proceeding, including persons or parties who reviewed, or were given the opportunity to review, papers filed in this proceeding.

IPR2015-00990, Paper 14; IPR2015-01093, Paper 13 (“Order”).

Patent Owner filed a request for rehearing of the Order. (Paper 29, “Request”). The request for rehearing is denied.

ANALYSIS

When rehearing an interlocutory decision, a panel will review the decision for an abuse of discretion. 37 C.F.R. § 42.71(b). Patent Owner’s Request does not set forth any argument attempting to establish that we abused our discretion. Rather, Patent Owner merely requests that we broaden the scope of additional discovery to include agreements related to the funding of the current proceeding and reargues positions set forth in its Motion.

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Patent Owner has not carried its burden of demonstrating that the Board's decision limiting additional discovery to agreements relevant to the control of these proceedings constitutes an abuse of discretion.

In consideration of the foregoing, it is hereby ORDERED that Patent Owner's request for rehearing is *denied*.

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