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IPR2015-01092, Paper No. 72

IPR2015-01096, Paper No. 72

IPR2015-01102, Paper No. 74

IPR2015-01103, Paper No. 75

September 12, 2016

571-272-7822

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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COALITION FOR AFFORDABLE DRUGS VI, LLC,  
Petitioner,

v.

CELGENE CORPORATION,  
Patent Owner.

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Case IPR2015-01092, Patent 6,045,501

Case IPR2015-01096, Patent 6,315,720

Case IPR2015-01102, Patent 6,315,720

Case IPR2015-01103, Patent 6,315,720

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Held: July 21, 2016

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BEFORE: MICHAEL P. TIERNEY, GRACE KARAFFA  
OBERMANN, and TINA E. HULSE, Administrative Patent  
Judges.

The above-entitled matter came on for hearing on Thursday, July  
21, 2016, commencing at 1:30 p.m., at the U.S. Patent and  
Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Case IPR2015-01092, Patent 6,045,501; Case IPR2015-01096,  
Patent 6,315,720  
Case IPR2015-01102, Patent 6,315,720; Case IPR2015-01103,  
Patent 6,315,720

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Case IPR2015-01092, Patent 6,045,501; Case IPR2015-01096,  
Patent 6,315,720  
Case IPR2015-01102, Patent 6,315,720; Case IPR2015-01103,  
Patent 6,315,720

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P R O C E E D I N G S

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JUDGE TIERNEY: Welcome, everyone, for the hearing today, for *inter partes* reviews 2015-01092, 01096, 01102 and 01103. Welcome, everyone. Before I begin today, I was just wondering if there are any procedural issues we need to address before we start the hearing today. I will start with Patent Owner.

MR. CERRITO: No, Your Honor.

THE COURT: Petitioner, any procedural issues?

MS. SPIRES: No, Your Honor.

THE COURT: With that, my understanding is we are going to have one hour each side, with the Petitioner beginning the hearing today. So, Petitioner, when you're ready, please begin.

MS. ABDULLAH: Good afternoon, Your Honors. I'm Sadaf Abdullah from the law firm Skiermont Derby, and with me is our lead counsel, Sarah Spires. We are here on behalf of the Petitioner, CFAD.

In these four proceedings, Petitioner has shown that the inventions of the '501 patent and the '720 patent were obvious to a person of ordinary skill in the art before their respective priority dates. I would like to address each patent separately because the

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Patent 6,315,720  
Case IPR2015-01102, Patent 6,315,720; Case IPR2015-01103,  
Patent 6,315,720

1 main issues of contention are somewhat distinct, and I'd like to  
2 begin with the '501 patent.

3 If we could go to slide 3, that patent is the subject of the  
4 '1092 proceeding, and the Board instituted this proceeding on the  
5 ground of whether claims 1 through 10 of that patent are obvious  
6 over Powell, Mitchell, and Dishman.

7 If we could go to slide 7, this is independent claim 1 of  
8 the '501 patent. It's the only independent claim. And the dispute  
9 between the parties as to what is disclosed in the prior art  
10 references with respect to this claim and the other claims of the  
11 patent center on three issues.

12 The first is the claim term of "computer readable  
13 storage medium," which first appears in element (a) and then is  
14 referred back to throughout the claim. The second issue is the  
15 inclusion of male patients that appears in claim element (d). And  
16 then the third issue is whether there was a motivation to combine  
17 the three references that I referenced.

18 Unless the Board has questions about the other aspects  
19 of the proceeding, I'd like to focus my presentation on these three.  
20 Beginning first with the "computer readable storage medium"  
21 claim term, if we could go to slide 19, Patent Owner wants to  
22 read into this claim term a limitation that the computer readable  
23 storage medium must be one centralized database. That

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1 construction has no support in the record, and it specifically has  
2 no support in the specification.

3           The specification is obviously very relevant, especially  
4 under a BRI standard, where the claim has to be given its  
5 broadest reasonable construction in light of the specification of  
6 the patent in which it appears. And Patent Owner essentially  
7 disregards the specification in making its arguments.

8           If we can go to slide 20, this is the relevant portion of  
9 the specification, which on the left-hand side of this slide refers to  
10 pharmacies being registered in a computer readable storage  
11 medium and then goes on to say that that may be the same as or  
12 different from the computer readable storage medium in which  
13 the prescribers are registered.

14           And going on to the right side of the screen, it's even  
15 more explicit. The registration into one or more computer  
16 readable storage medium appear in the specification.

17           In looking at Patent Owner's proposed construction, if  
18 we go to slide 21, we have the testimony from its expert,  
19 Dr. Frau, that actually indicates that the BRI standard was not  
20 applied, and the primary piece of evidence that Patent Owner  
21 relies on is a portion of the prosecution history, which if we take  
22 a look on slide 23 actually doesn't really even support that  
23 construction.

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