

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COALITION FOR AFFORDABLE DRUGS VI, LLC.,
Petitioner,
v.
CELGENE CORPORATION,
Patent Owner.

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)¹

Before MICHAEL P. TIERNEY, MICHAEL W. KIM, JAQUELINE
WRIGHT BONILLA, GRACE KARAFFA OBERMANN, and TINA E.
HULSE, *Administrative Patent Judges*.

TIERNEY, *Administrative Patent Judge*.

DECISION
Motion to Withdraw Exhibit
37 C.F.R. § 42.5

¹ This order addresses issues common to all cases; therefore, we issue a single order to be entered in each case.

IPR2015-01092 (Patent 6,045,501)
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IPR2015-01102 (Patent 6,315,720)
IPR2015-01103 (Patent 6,315,720)

Patent Owner filed Motions for Sanctions (“Motion,” Paper 11²) requesting dismissal of Petitioner’s Petitions in IPR2015-01092, -01096, -01102, -01103. The Motion alleges that the Petitions represent an ongoing abuse of the *inter partes* review process that will be an unwarranted burden on the Board, and innovators like Patent Owner. Motion at 1. According to the Motion, the Petition is driven entirely by an admitted “profit motive” unrelated to the purpose of the American Invents Act, and unrelated to the competitive interest in the validity of the challenged patents. *Id.* at 2.

In response to the Motion, Petitioner filed an Opposition to Patent Owner’s Motion (“Opposition,” Paper 12). Among other things, the Opposition relied upon a Declaration of Dr. Juan (Julie) Wu, Exhibit 1039 for the proposition that short selling is not illegal, and can be beneficial to financial markets. Opposition at 6, 10 n.2.

Patent Owner requested that Petitioner make Dr. Wu available for cross examination, a request that Petitioner rejected. Petitioner Motion to Withdraw, Paper 14. A conference call was held with the Board to discuss Patent Owner’s request to cross examine Dr. Wu. *Id.* During the conference call, both parties acknowledged that the topics addressed by Dr. Wu’s declaration are not relevant to the central issues raised.

Petitioner, in light of the conference call, filed its Unopposed Motion to Withdraw the Wu Declaration. *Id.* Petitioner requests that Dr. Wu’s declaration be withdrawn in the interest of resolving the cross examination

² Citations to papers and exhibits refer to those filed in IPR2015-01092. Similar papers and exhibits were filed in each of the other cases.

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dispute, moving to the merits and avoiding further delay and expense. *Id.*
Patent Owner did not oppose Petitioner's request.

Based upon the specific facts presented, we grant Petitioner's request to withdraw Dr. Wu's declaration from consideration. Petitioner's Unopposed Motion identifies two places in its Opposition that rely upon the declaration, page 6 and footnote 2 on page 10. Per Petitioner's request, these two citations are stricken from the Opposition.

PETITIONER:

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