

trials@uspto.gov

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

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

Held: July 21, 2016

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

APPEARANCES:

ON BEHALF OF THE PETITIONER:

SADAF R. ABDULLAH, ESQ.
SARAH E. SPIRES, ESQ.
Skiermont Derby, LLP
2200 Ross Avenue, Suite 4800W
Dallas, Texas 75201

ON BEHALF OF PATENT OWNER:

F. DOMINIC CERRITO, ESQ.
ANDREW S. CHALSON, ESQ.
FRANK C. CALVOSA, ESQ.
Quinn Emanuel Urquhart & Sullivan
51 Madison Avenue, 22nd Floor
New York, New York 10010

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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

P R O C E E D I N G S

- - - - -

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

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 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

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 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.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.