Paper No. 37
Filed: January 25, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COALITION FOR AFFORDABLE DRUGS VI LLC

PETITIONER

V.

CELEGENE CORPORATION

PATENT OWNER

Case IPR2015-01103
Patent 6,315,720

PETITIONER'S MOTION TO SUBMIT SUPPLEMENTAL INFORMATION PURUSUANT TO 37 C.F.R. § 42.123(a)

Pursuant to 37 C.F.R. § 42.123(a), Petitioner Coalition For Affordable Drugs VI LLC ("CFAD") hereby moves to submit supplemental information in accordance with the Order dated December 9, 2015 (Paper 34) in Case IPR2015-01103. The Patent Owner indicated that it opposes this motion.

I. The Present Motion Complies with the Rules

1. The present motion complies with the requirements of 37 CFR § 42.123(a)(1), as set forth below:

2. 37 CFR § 42.123(a)(1): The Board instituted the *inter partes* review of U.S. Patent 6,315,720 in a Decision dated October 27, 2015. (Paper 22.) Petitioner's request for authorization was timely made within one month of institution. (*See* e-mail communication to the Board and Patent Owner on November 27, 2015.)

3. 37 CFR § 42.123(a)(2): In this proceeding, trial has not been instituted for Claims 1–32 based on *FDA Meeting Transcripts* (Exs. 1012, 1013) or *CDC minutes* (Ex. 1014). Specifically, Petitioner relies on these references to explain the state of the relevant art at the time of the invention. (Paper 1 at 13–14.)

4. Patent Owner objected to the admissibility of evidence submitted during the preliminary proceedings— *FDA Meeting Transcripts* (Exs. 1012, 1013) and *CDC minutes* (Ex. 1014). (Paper 24.)

5. Pursuant to 37 C.F.R. § 42.64(b)(2), Petitioner timely responded to Patent Owner's objections to evidence submitted during the preliminary proceeding with service of the following supplemental evidence:

Evidence	**Patent Owner's Objection**	**Supplemental Evidence Submitted in Response**
Exhibit 1012 & 1013 (*FDA Meeting Transcript*	FRE 901, 802	Exhibit 1074 - Oct. 12, 2011 Information Disclosure Statement, Application No. 12/966,240 (resulting in U.S. Patent No. 8,204,763)
Exhibit 1014 (*CDC Minutes*)	FRE 901, 802	Exhibit 1075 - Sep. 19, 2011 Information Disclosure Statement, Application No. 12/966,261 (resulting in U.S. Patent No. 8,315,886) Exhibit 1076 - Federal Register Volume 62, Number 53 (March 19, 1997)

II. The Supplemental Information

6. As mentioned above, the present IPR refers to *FDA Meeting Transcripts* and *CDC minutes*, and the supplemental information regarding these references having been served on Patent Owner, Petitioner seeks to file the above supplemental evidence as supplemental information.

III. Conclusion

The supplemental information Petitioner seeks to submit does not change the grounds of unpatentability on which the *inter partes* review has been instituted, nor

does it change the evidence initially presented in the Petition to support such grounds of unpatentability. Instead, the supplemental information merely constitutes additional information that confirms public accessibility/availability of *FDA Meeting Transcripts* (Exs. 1012, 1013) and *CDC minutes* (Ex. 1014), and this supplemental information was neither withheld intentionally nor would it limit or frustrate the Board's ability to complete this proceeding in a timely manner.

For the foregoing reasons, Petitioner requests the Board to accept this motion.

Respectfully submitted, January 25, 2016

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CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2016, a copy of this Motion, including all exhibits, was served via email upon the following:

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