

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PHARMACOSMOS A/S,  
Petitioner,

v.

LUITPOLD PHARMACEUTICALS, INC.,  
Patent Owner.

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Case IPR2015-01490 (Patent 7,754,702 B2)<sup>1</sup>  
Case IPR2015-01493 (Patent 8,431,549 B2)

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Before TONI R. SCHEINER, LORA M. GREEN, and  
CHRISTOPHER G. PAULRAJ, *Administrative Patent Judges*.

PAULRAJ, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceedings  
*37 C.F.R. § 42.5*

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<sup>1</sup> 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 both proceedings, provided that such heading includes a footnote attesting that “the word-for-word identical paper is filed in each proceeding identified in the heading.”

Case IPR2015-01490 (Patent 7,754,702 B2)

Case IPR2015-01493 (Patent 8,431,549 B2)

A conference call in the above-captioned proceeding was held on August 18, 2016, between respective counsel for the parties and Judges Paulraj, Scheiner, and Green. The purpose of the call was to address Patent Owner's request to expunge Petitioner's Response to Patent Owner's Objections to Evidence Pursuant to 37 C.F.R. § 42.64(b)(2) (Paper 36 in each proceeding).

During the call, we noted that the Board's rules do not provide an opportunity to file responses to evidentiary objections. Rather, 37 C.F.R. § 42.64(b)(2), cited in Petitioner's papers, is directed to "[s]upplemental evidence," indicating that "[t]he party relying on evidence to which an objection is timely served may respond to the objection by serving supplemental evidence within ten business days of service of the objection." In view of the fact that Petitioner's responses were not authorized filings, we indicated that we would expunge those filings. Petitioner did not object to expungement given that it will have an opportunity to file an Opposition to Patent Owner's Motion to Exclude in each proceeding.

#### ORDER

Accordingly, in consideration of the foregoing, it is hereby:

ORDERED that Petitioner's Response to Patent Owner's Objections to Evidence Pursuant to 37 C.F.R. § 42.64(b)(2) (Paper 36 in each proceeding) shall be expunged.

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