

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PHARMACOSMOS A/S,
Petitioner,

v.

LUITPOLD PHARMACEUTICALS, INC.,
Patent Owner.

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

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

GREEN, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ 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.”

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

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

Petitioner, Pharmacosmos A/S, and Patent Owner, Luitpold Pharmaceuticals, Inc., have requested for oral hearing pursuant to 37 C.F.R. § 42.70. Papers 42 and 43.² The requests are *granted*. Oral arguments will commence at 1:00 PM Eastern Time on September 22, 2016, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

Each party will have one hour and fifteen minutes to present arguments. Petitioner bears the ultimate burden of proof that the claims at issue in this review are unpatentable. Patent Owner bears the burden of proof with respect to its Motion to Amend. Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial. Patent Owner will then respond to Petitioner's arguments and also argue in support of its Motion to Amend.

Each party may reserve time to respond to arguments presented by the other party with some limitations. More specifically, to the extent that Petitioner reserves time, it may respond only to Patent Owner's presentation on all matters. To the extent that Patent Owner reserves time, it may respond only to Petitioner's arguments opposing the Motion to Amend. In addition, the parties should meet and confer as to how they would like the oral hearing to proceed. That is, we leave to the parties to determine if they would like to argue the two proceedings simultaneously, or argue IPR2015-01490, and then argue IPR2015-01493. The parties should jointly send an email to the Board no later than September 20, 2015, informing the Board as to that decision.

² The paper numbers refer to the paper numbers in IPR2015-01490.

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

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

The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis. The Board will provide a court reporter, and the transcript shall constitute the official record of the hearing.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least five business days before the hearing. The Board requests that such exhibits be filed at the Board at least five business days before the hearing. The parties must file any objections to the demonstratives with the Board at least two business days before the hearing. Any objection to demonstrative exhibits that is not timely presented will be considered waived. The objections should identify with particularity which demonstratives are subject to objection, and include a short (one sentence or less) statement of the reason for each objection. The Board asks the parties to confine demonstrative exhibit objections to those identifying egregious violations that are prejudicial to the administration of justice. No argument or further explanation is permitted. The Board will consider the objections and schedule a conference if deemed necessary. Otherwise, the Board will reserve ruling on the objections until after the oral argument. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB January 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits. The parties are reminded that the demonstratives do not constitute evidence, but are only aids to oral argument. The parties are reminded further that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced

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

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

during the hearing to ensure the clarity and accuracy of the reporter's transcript.

The Board expects lead counsel for each party to be present in person at the oral hearing. Any counsel of record, however, may present the party's argument. If either party anticipates that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

Any special requests for audio visual equipment should be directed to Trials@uspto.gov. Requests for special equipment will not be honored unless presented in a separate communication directed to the above email address not less than five days before the hearing.

Accordingly, it is

ORDERED that oral arguments in this proceeding shall take place beginning at 10:00 AM Eastern Time on February 6, 2015, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria.

IPR2015-01490 (Patent 7,754,702 B2)
IPR2015-01493 (Patent 8,431,549 B2)

For PETITIONER:

Jennifer Tempesta
Jennifer.tempesta@bakerbotts.com

Paul Ragusa
Paul.ragusa@bakerbotts.com

Lisa Kole
Lisa.kole@bakerbotts.com

Steven Lendaris
Steven.lendaris@bakerbotts.com

For PATENT OWNER:

Michael Kaminski
mkaminski@foley.com

George Quillin
gquillin@foley.com