RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

- - - - - -

BEFORE THE PATENT TRIAL AND APPEAL BOARD

- - - - - -

ANCESTRY.COM DNA, LLC,

Petitioner,

vs.

DNA GENOTEK INC.,

Patent Owner.

- - - - - -

Case IPR2016-00060

Patent 8,221,381 B2

Technology Center 3700

Oral Hearing on Tuesday, December 6, 2016

Before: WILLIAM V. SAINDON, HYUN J. JUNG, and MICHELLE N. WORMMEESTER, Administrative Patent Judges.

The above-entitled matter came on for hearing on Tuesday, December 6, 2016, at 10:02 a.m., Hearing Room B, taken at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

REPORTED BY RAYMOND G. BRYNTESON, RMR, CRR, RDR

APPEARANCES:

ON BEHALF OF THE PETITIONER:

DANIEL M. BECKER, M.D.

JENNIFER R. BUSH, ESQ.

Fenwick & West LLP

801 California Street

Mountain View, California 94041

650-998-8500

MICHAEL SACKSTEDER, ESQ.

Fenwick & West LLP

555 California Street, 12th Floor

San Francisco, California 94104

415-875-2300

ON BEHALF OF THE PATENT OWNER:

BRIAN M. KRAMER, ESQ.

JOHN R. LANHAM, ESQ.

Morrison Foerster LLP

12531 High Bluff Drive, Suite 100

San Diego, California 92130-2040

858-720-5100

1	P R O C E E D I N G S
2	(10:02 a.m.)
3	JUDGE WORMMEESTER: Good morning. This
4	morning we have our final hearing in IPR2016-00060,
5	Ancestry.com DNA v. DNA Genotek Inc. which concerns U.S.
6	Patent Number 8,221,381.
7	I'm Judge Wormmeester. To my right is Judge
8	Saindon and to my left is Judge Jung.
9	Let's get the parties' appearances, please. Who do
10	we have for Petitioner?
11	MR. BECKER: Daniel Becker. I'm lead counsel
12	for Petitioner. I'm joined by backup counsel, Jennifer Bush,
13	and my partner, Mike Sacksteder. Mr. Sacksteder has been
14	admitted pro hac vice and he will be arguing for Petitioner.
15	JUDGE WORMMEESTER: Okay. Thank you.
16	Good morning, counsel. And for Patent Owner who do we
17	have?
18	MR. KRAMER: I'm Brian Kramer with Morrison
19	& Foerster LLP. With me today is Mr. John Lanham, who is
20	admitted pro hac vice to this case.
21	JUDGE WORMMEESTER: Okay. Thank you.
22	And you will be presenting today?
23	MR. KRAMER: I will, Your Honor.
24	JUDGE WORMMEESTER: Welcome. It is good to
25	have you here. We set forth the procedure for today's hearing

1   in our trial order, but just to remind everyone the way this will

2   work, each party will have 30 minutes to present arguments.

3   Petitioner has the burden and will go first and may reserve

4   time for rebuttal. Patent Owner will then have the opportunity

5   to present its response.

6   We remind you that the demonstrative exhibits that

7   you submitted are not part of the record. The record of the

8   hearing will be the transcript. We will give you a warning

9   when you are into your rebuttal time or reaching the end of

10 your argument time.

11   Are there any questions before we proceed?

12   MR. SACKSTEDER: No, Your Honor.

13   JUDGE WORMMEESTER: Mr. Sacksteder, will

14 you be reserving any time?

15   MR. SACKSTEDER: I will be reserving five

16 minutes, please. And, Your Honors, before we get started, the

17 parties have, with the Board's permission, made kind of a joint

18 request that Mr. Kramer will address.

19   JUDGE WORMMEESTER: Sure.

20   MR. KRAMER: Thank you, Mr. Sacksteder. We

21 wanted to inform the Board that the parties are close to

22 settling the case and that we expect that there will be a motion

23 to dismiss filed at some point between now and perhaps the

24 end of January.

4

1   Of course the Board can issue its opinion whenever

2   the Board sees fit, but we would ask that the court not do so

3   significantly in advance of its statutory deadline. To do so

4   that would help facilitate finalization of the settlement

5   agreement. We've agreed to proceed today to proceed with the

6   IPR hearing, but we thought that it would be perhaps

7   beneficial for the Board to know that we do expect that there

8   may be a dismissal filed shortly in this case.

9   JUDGE WORMMEESTER: Okay. Thank you.

10   JUDGE JUNG: Sorry, you expect that to be filed

11 within, or the request made within a couple weeks, or a

12 month? What time frame are we talking about here?

13   MR. KRAMER: I think that it is safe to say we

14 expect it to be done before the end of January, hopefully

15 before the end of December. The parties are at that stage of

16 exchanging settlement drafts but we are close to settlement.

17   We have had a Markman hearing on Friday before

18 the District of Delaware and we said the same thing to the

19 District Judge in that case who has a deadline of January 17th

20 to issue a Markman ruling in a related litigation. The parties

21 made the same representation to that court, too.

22   JUDGE JUNG: Thank you.

23   JUDGE WORMMEESTER: All right. So you will

24 have about 25 minutes. You can begin when you are ready.

DOCKET ALARM

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.