

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PAR PHARMACEUTICAL, INC.,
BRECKENRIDGE PHARMACEUTICAL, INC., AND
ROXANE LABORATORIES, INC.,
Petitioners,

v.

NOVARTIS AG,
Patent Owner.

Case IPR2016-00084¹
Patent 5,665,772

Before CHRISTOPHER L. CRUMBLEY, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ Breckenridge Pharmaceutical, Inc. was joined as a party to this proceeding via a Motion for Joinder in IPR2016-01023; Roxane Laboratories, Inc. was joined as a party via a Motion for Joinder in IPR2016-01102.

Petitioners Par Pharmaceutical, Inc., Breckenridge Pharmaceutical, Inc., and Roxane Laboratories, Inc., and Patent Owner Novartis AG, each requested oral argument in this *inter partes* review trial pursuant to 37 C.F.R. § 42.70. Papers 51, 52. Upon consideration, these requests are *granted*. Oral argument shall commence at 9:00 AM Eastern Time on February 2, 2017, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. Each party will have forty-five minutes of total time to present arguments.

The Petitioners bear the ultimate burden of proof that the claims at issue in this review are unpatentable. Therefore, Petitioners² will open the hearing by presenting argument regarding the pending grounds of unpatentability. Patent Owner will then have the opportunity to respond to Petitioners' arguments. If desired, Petitioners may reserve rebuttal time to respond to arguments presented by Patent Owner.

The Board will provide a court reporter, and the transcript shall constitute the official record of the hearing. No Motions to Seal have been filed in this proceeding. Accordingly, the Board concludes that the parties are capable of presenting their arguments without discussing confidential information, and exercises its discretion to make the oral hearing publicly accessible. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis.

² In their Request for Oral Argument, Petitioners propose that lead counsel for Par Pharmaceutical will present argument on behalf of all Petitioners, with lead counsel for the other Petitioners present. Paper 51, 1. This proposal is acceptable to the Board.

Pursuant to 37 C.F.R. § 42.70(b), demonstrative exhibits shall be served on opposing counsel at least seven business days before the hearing, and filed with the Board no later than the time of the oral argument. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, Case IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits.

The Board expects that the parties will meet and confer in good faith to resolve any objections to demonstrative exhibits, but if such objections cannot be resolved the parties may file any objections to demonstratives with the Board at least two business days before the hearing. The objections should identify with particularity which portions of the demonstrative exhibits are subject to objection, include a copy of the objected-to portions, and include a one-sentence statement of the basis for each objection. No argument or further explanation is permitted. The Board will consider any objections and schedule a conference call if deemed necessary. Otherwise, the Board will reserve ruling on the objections. Any objection to demonstrative exhibits that is not timely presented will be considered waived.

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.

Case IPR2016-00084
Patent 5,665,772

Any special requests for audio visual equipment should be directed to
Trials@uspto.gov.

In light of the foregoing, it is:

ORDERED that oral hearing, conducted pursuant to the procedures
outlined above, shall commence at 9:00 AM Eastern Time on February 2,
2017.

Case IPR2016-00084
Patent 5,665,772

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