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UNITED STATES PATENT AND TRADEMARK OFFICE

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In the Matter of:

IPR-2016-00383  
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BOARD TELECONFERENCE

UNITED STATES PATENT AND TRADEMARK OFFICE

Washington, D.C., 20006

May 6, 2016

11:00 a.m.

BEFORE: LORA GREEN, Administrative Patent Judge

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APPEARANCES

Appearing via Telephone as Panel of Judges:

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Susan Mitchell, Hearing Officer

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PROCEEDINGS

JUDGE GREEN: Good morning, this is Judge Green. I also have Judges Franklin and Mitchell on the line with me. I would like to start with a roll call. Who do I have for Petitioner?

MR. MCCORMICK: Good morning, Your Honor. This is Rich McCormick with the Mayer Brown Law Firm for Petitioner, Genzyme, and then I have Lisa Ferri, also from Mayer Brown for Genzyme.

JUDGE GREEN: Okay, thank you. And who do I have for Patent Owner?

MR. KUSHAN: Good morning, Your Honor. This is Jeff Kushan from Sidley Austin for the Patent Owner, and with me are Dave Cavanaugh and Bob Gunther from Wilmer Hale. We also wanted to let you know we have a court reporter lined up who's transcribing the phone call today.

JUDGE GREEN: Okay. And you will file a transcript of that call --

MR. KUSHAN: Yes.

JUDGE GREEN: -- in due course.

MR. KUSHAN: Yes, Your Honor, we will do

1           that.

2                   JUDGE GREEN:   Okay, thank you.   And please  
3           file it as an exhibit.   It's my understanding  
4           that Petitioner requested this call to request  
5           authorization to file a Reply to Patent Owner's  
6           Preliminary Response.   Would Petitioner like to  
7           begin?

8                   MR. MCCORMICK:   Yes, thank you, Your  
9           Honor.   This is Rich McCormick again.   So, with  
10          respect to the reply, we would -- we would seek  
11          leave to file the reply on the limited issues  
12          of the 325(d) and 325(e) arguments in the  
13          Patent Owner's Preliminary Response.

14                   JUDGE GREEN:   Uh-huh.

15                   MR. MCCORMICK:   I -- I would just note I  
16          think 325(e), I -- I assume what the Patent  
17          Owners meant was 315E.   325(e) is Post-Grant  
18          Review Estoppel.   315(e) is IPR Estoppel.   The  
19          estoppel provisions are otherwise the same  
20          between the two, so our arguments would be the  
21          same in reply.

22                   With that said, maybe just a little bit of  
23          table setting and I can sort of put in the  
24          level of detail you'd like, but there

1 are -- there are two -- two IPRs currently  
2 pending about the same patent, we'll call the  
3 Cabilly II patents. One was filed by Sanofi US  
4 and Regeneron back in July.

5 The second IPR was filed by Petitioner  
6 Genzyme, in this matter, at the end of last  
7 year, December 30th. Again, it's challenging  
8 the same patent and it is the same challenge  
9 claims, different grounds.

10 The Sanofi Regeneron IPR had trial  
11 instituted on February 5th, so that was after  
12 Genzyme put their petition in. And the trial  
13 institution order or decision let trial go  
14 ahead on all of the challenge claims except  
15 four, and those are claims 9, 15, 16 and 17  
16 of Cabilly II.

17 And in -- in that -- in that institution  
18 decision and in Sanofi's IPR petition, there  
19 were no 103 arguments presented for those  
20 claims 9, 15, 16 and 17. Genzyme's IPR filed  
21 December 30th, 2015, it has the same challenge  
22 claims. It includes claims 9, 15, 16 and 17.

23 And specifically there are -- they did  
24 present -- or, rather, Genzyme did present 103

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