

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KOIOS PHARMACEUTICALS LLC,
Petitioner,

v.

MEDAC GESELLSCHAFT FÜR KLINISCHE SPEZIALPRÄPARATE
MBH,
Patent Owner.

Case IPR2016-01370
Patent 8,664,231 B2

Before JACQUELINE WRIGHT BONILLA, *Vice Chief Administrative Patent Judge*, TONI R. SCHEINER, and ERICA A. FRANKLIN, *Administrative Patent Judges*.

BONILLA, *Vice Chief Administrative Patent Judge*.

ORDER
Request for Oral Argument
37 C.F.R. § 42.70

Koios Pharmaceuticals LLC (“Petitioner”) and medac Gesellschaft für klinische Spezialpräparate mbH (“Patent Owner”) each request an oral hearing in this proceeding pursuant to 37 C.F.R. § 42.70. Paper 40; Paper 41. We grant the requests. A hearing will commence at **10:00 AM Eastern Time on Tuesday, November 7, 2017**, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, VA.

Each party will have 45 minutes of argument time. Petitioner bears the ultimate burden of persuasion that the claims at issue are unpatentable. Thus, Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial. Patent Owner then will have the opportunity to respond to Petitioner’s arguments. Finally, Petitioner may use any time it has reserved for rebuttal to respond to arguments presented by Patent Owner. Patent Owner may not reserve rebuttal time.

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

Under 37 C.F.R. § 42.70(b), demonstrative exhibits, if any, must be served on opposing counsel at least seven (7) business days before the hearing. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. Board of Regents of the University of Michigan*, Case IPR2013-00041 (PTAB Jan. 27, 2014) (order), Paper 65, 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 must file any objections to

the demonstratives with the Board at least two business days before the hearing. The objections should identify with particularity which portions of the demonstratives are subject to objection, and include a short (one sentence or less) statement of the reason for each objection. 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. Any objection to the demonstrative exhibits that is not timely presented will be considered waived.

The parties also shall provide the demonstrative exhibits to the Board by emailing them to Trials@uspto.gov. Despite the requirement in § 42.70(b) for parties to file demonstratives, the parties shall not file any demonstrative exhibits in this case without prior authorization from the Board. A hard copy of the demonstratives should be provided to the court reporter at the hearing.

The parties are reminded that, during the hearing, the presenter must identify clearly each demonstrative exhibit (e.g., by referencing a specific slide or screen number) to ensure clarity and accuracy of the reporter's transcript.

The Board expects lead counsel for each party to be present at the oral hearing, although any counsel of record may make the actual presentation. If either party anticipates that its lead counsel will not be in attendance at the oral hearing, the parties should initiate a joint telephone conference with the Board no later than five (5) business days prior to the oral hearing to discuss the matter.

Questions regarding specific audio-visual equipment should be directed to the Board at (571) 272-9797. Requests for audio-visual

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equipment must be made at least five (5) business days in advance of the hearing date. The request is to be sent to Trials@uspto.gov. If the request is not timely received, the equipment may not be available on the day of the hearing.

It is

ORDERED that oral argument will commence at 10:00 AM ET on November 7, 2017.

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