

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PAR PHARMACEUTICAL, INC.,
ARGENTUM PHARMACEUTICAL LLC, AND
WEST-WARD PHARMACEUTICALS
INTERNATIONAL LIMITED,
Petitioners,

v.

NOVARTIS AG,
Patent Owner.

Case IPR2016-01479¹
Patent 9,006,224 B2

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

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ Argentum Pharmaceutical LLC was joined as a party to this proceeding via a Motion for Joinder in IPR2017-01063; West-Ward Pharmaceuticals International Limited was joined as a party via a Motion for Joinder in IPR2017-01078.

Petitioner² Par Pharmaceutical, 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 31, 36. Upon consideration, these requests are *granted*. Oral argument shall commence at 9:00 AM Eastern Time on November 1, 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, Petitioners³ 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

² Par Pharmaceutical filed its Request for Oral Argument before Argemum Pharmaceutical and West-Ward Pharmaceuticals International were joined as parties to this proceeding. The joined Petitioners, however, proposed to take an "understudy" role in the joined proceeding (*see* IPR2017-01063, Paper 3, 5; IPR2017-01078, Paper 3, 8), and therefore we construe Par's request to be on behalf of all Petitioners.

³ In our Decision granting joinder, we ordered Par, Argemum, and West-Ward to collectively designate attorneys to present at the oral hearing as a consolidated presentation. Paper 33, 8.

accessible. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis.

Pursuant to 37 C.F.R. § 42.70(b), demonstrative exhibits shall be served on opposing counsel at least five 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

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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.

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 November 1, 2017.

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