

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACRUX DDS PTY LTD. & ACRUX LIMITED
Petitioner,

v.

KAKEN PHARMACEUTICAL CO., LTD. And VALEANT
PHARMACEUTICALS INTERNATIONAL, INC.,
Patent Owner.

Case IPR2017-00190
Patent 7,214,506 B2

Before ERICA A. FRANKLIN, SUSAN L. C. MITCHELL, and
ROBERT A. POLLOCK, *Administrative Patent Judges*.

MITCHELL, *Administrative Patent Judge*.

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

The Scheduling Order for this proceeding provided that an oral hearing would be conducted if the hearing is requested by the parties and granted by the Board. Patent Owner and Petitioner each requested oral hearing pursuant to 37 C.F.R. § 42.70. Papers 54, 61. The requests are *granted*.

Each party will have forty-five (45) minutes of total time to present argument. Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue are unpatentable. Thus, Petitioner will open the hearing by presenting its case regarding the challenged claims for which we instituted trial. Petitioner may reserve some of its argument time for rebuttal. Thereafter, Patent Owner will respond to Petitioner's presentation. Patent Owner may reserve rebuttal time only for its Motion to Exclude.

The hearing will commence at 9:30 AM Eastern Time on January 26, 2018, in Hearing Room A, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing and will be entered in the record. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis.

Furthermore, under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven (7) business days before the hearing date. The parties also shall provide the demonstrative exhibits to the Board at least *two* business days prior to the hearing 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 panel and court reporter at the hearing.

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), 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 and include a one-sentence statement of the reason 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 parties are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to avoid confusion, and to ensure the clarity and accuracy of the reporter's transcript.

The Board expects lead counsel for each party to be present in person at the oral hearing. However, any counsel of record may present the party's argument. If either party expects 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.

Questions regarding specific audio-visual equipment should be directed to the Board at (571) 272-9797. Requests for audio-visual equipment are to be made five (5) days in advance of the hearing date. The request is to be sent to

IPR2017-00190
Patent 7,214,506 B2

Trials@uspto.gov, any requests not sent specifically to that email address will not be considered timely. If the request is not received timely, the equipment may not be available on the day of the hearing.

IPR2017-00190
Patent 7,214,506 B2

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