

UNITED STATES PATENT AND TRADEMARK OFFICE  
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BEFORE THE PATENT TRIAL AND APPEAL BOARD  
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ACRUX DDS PTY LTD., ACRUX LIMITED, and  
ARGENTUM PHARMACEUTICALS LLC,  
Petitioner,

v.

KAKEN PHARMACEUTICAL CO., LTD. and VALEANT  
PHARMACEUTICALS INTERNATIONAL, INC.,  
Patent Owner.  
\_\_\_\_\_

Case IPR2017-00190<sup>1</sup>  
Patent 7,214,506 B2  
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Before ERICA A. FRANKLIN, SUSAN L. C. MITCHELL, and  
ROBERT A. POLLOCK, *Administrative Patent Judges.*

MITCHELL, *Administrative Patent Judge.*

ORDER  
Conduct of the Proceeding  
37 C.F.R. § 42.5

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<sup>1</sup> Case IPR2017-01429 has been joined with the instant proceeding.

Kaken Pharmaceutical Co., Ltd. and Valeant Pharmaceuticals International, Inc. (collectively, “Patent Owner”) requested a conference call in the above-referenced *inter partes* review to request authorization to file a motion to strike the “submission of three new declarations, 165 new exhibits, and related new arguments” in the Reply of Acrux DDS PTY Ltd. and Acrux Limited (collectively, “Petitioner”). A conference call was held on Thursday, November 16, 2017, between respective counsel for the parties for the above-identified *inter partes* review<sup>2</sup> and Judges Mitchell, Franklin, and Pollock, to discuss Patent Owner’s request.

Specifically, Patent Owner requests authorization to file a Motion to Strike at least portions of three new expert declarations at Exhibits 1509–1511, 165 new exhibits at Exhibits 1500–1665, and alleged new legal argument in Petitioner’s Reply relating to two of Patent Owner’s patents at Exhibits 1007 and 1505. Petitioner seeks authorization to file a motion to strike portions of Patent Owner’s Objections to Evidence filed on November 8, 2017, but withdrew the request during the conference call.

Patent Owner asserts that Petitioner’s newly submitted declarations serve to circumvent the page limitations of briefing and that many of the new exhibits are not cited in any paper. Patent Owner also asserts that Petitioner inappropriately offers new arguments in its Reply that could have been included in the Petition. Petitioner responds that its expert declarations, exhibits, and arguments were offered appropriately as rebuttal in response to Patent Owner’s arguments and evidence.

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<sup>2</sup> Counsel for Argentum Pharmaceuticals LLC did not participate in the call.

After considering the parties respective positions, we find that Patent Owner has shown good cause for filing its Motion to Strike, and we authorize Patent Owner to file such motion.

### ORDER

It is

ORDERED that the Patent Owner's request to file a Motion to Strike addressing Petitioner's new expert declarations at Exhibits 1509–1511, new exhibits at Exhibits 1500–1665, and alleged new legal arguments in Petitioner's Reply relating to two of Patent Owner's patents at Exhibits 1007 and 1505 is *granted*;

FURTHER ORDERED that Patent Owner's Motion to Strike is due no later than Monday, November 27, 2017;

FURTHER ORDERED that Petitioner's Response to the Motion to Strike is due no later than Wednesday, December 6, 2017;

FURTHER ORDERED that each party will be limited to fifteen pages for each brief; and

FURTHER ORDERED that Patent Owner is not authorized to file a Reply in support of its Motion to Strike.

IPR2017-00190  
Patent 7,214,506 B2

For PETITIONER:

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