

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APOTEX INC. and APOTEX CORP.,
ARGENTUM PHARMACEUTICALS LLC, ACTAVIS ELIZABETH LLC,
TEVA PHARMACEUTICALS USA, INC., SUN PHARMACEUTICAL
INDUSTRIES, LTD., SUN PHARMACEUTICAL INDUSTRIES, INC.,
and SUN PHARMA GLOBAL FZE,
Petitioners,

v.

NOVARTIS AG,
Patent Owner.

Case IPR2017-00854¹
Patent US 9,187,405 B2

Before CHRISTOPHER M. KAISER, ROBERT A. POLLOCK, and
KRISTI L. R. SAWERT, *Administrative Patent Judges*.

POLLOCK, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ Cases IPR2017-01550, IPR2017-01946, and IPR2017-01929 have been joined with this proceeding.

Petitioners and Patent Owner separately requested oral argument in this *inter partes* review pursuant to 37 C.F.R. § 42.70. Papers 84, 88. Upon consideration, these requests are *granted*. Oral argument shall commence at 1:30 PM Eastern Time on Friday, May 11, 2018, 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. Petitioner will open the hearing by presenting its arguments regarding the challenged claims for which the Board instituted trial. Petitioner may reserve time for rebuttal arguments. Patent Owner will then respond to Petitioner's arguments and present its arguments regarding its Motion to Amend and its Motion to Exclude. Patent Owner may reserve time for rebuttal arguments as to its Motion to Amend and Motion to Exclude only. Petitioner may then respond to Patent Owner's Motion to Amend and Motion to Exclude and present rebuttal arguments regarding the challenged claims. Patent Owner may then present rebuttal arguments as to its Motion to Amend and Motion to Exclude only. No other arguments or motions may be presented.

The Board will provide a court reporter, and the transcript shall constitute the official record of the hearing. By default, the hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis. We note, however, that the Parties have filed Motions to Seal in this proceeding. Papers 29, 36, 37, 50, 83, 99. To the extent a Party believes that it cannot adequately present its arguments without discussing confidential information, it may request a conference call

at least two business days prior to the hearing to discuss why we should exclude the public from some portion of its presentation.

At least five business days prior to the hearing, each party shall serve on the other party any demonstrative exhibit(s) it intends to use during the hearing. *See* 37 C.F.R. § 42.70(b). The parties should attempt to work out any objections to demonstratives prior to involving the Board. At least two business days prior to the hearing, the parties shall file the demonstrative exhibits with the Board. *See id.* 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 parties must initiate a conference call with the Board at least two business days before the hearing to present any objection regarding the propriety of any demonstrative exhibit. Any objection to demonstrative exhibits that is not timely presented will be considered waived. As demonstrative exhibits are not themselves evidence, the Board asks the parties to confine demonstrative exhibit objections to those identifying egregious violations that are prejudicial to the administration of justice.

The parties are reminded that each presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during each hearing to ensure the clarity and accuracy of the reporter's transcript. The parties also should note that at least one member of the panel will be attending the hearing electronically from a remote location and that if a demonstrative is not filed or otherwise made fully available or visible to the judge presiding over the hearing, that demonstrative will not be considered. The parties also should note that a panel member appearing

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remotely might not be able to hear the parties unless they speak into the microphone at the podium. If the parties have questions as to whether demonstrative exhibits would be sufficiently visible and available to all of the judges, the parties are invited to contact the Board at (571) 272-9797.

The Board expects lead counsel for each party to be present in person at the hearing. If a party anticipates that its lead counsel will not be attending the oral arguments, 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. Any counsel of record, however, may present the party's argument.

The parties are reminded to direct their requests for audio-visual equipment to Trials@uspto.gov. Requests for special equipment will not be honored unless presented in a separate communication directed to the above email address not less than five days before the hearing. If the request is not received timely, the equipment may not be available on the day of the hearing.

In light of the foregoing, it is:

ORDERED that oral hearing, conducted pursuant to the procedures outlined above, shall commence at 1:30 PM Eastern Time on Friday, May 11, 2018.

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