

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Celltrion, Inc.

Petitioner,

v.

Genentech, Inc.

Patent Owner

Patent No. 6,407,213

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*Inter Partes* Review No. IPR2017-01373

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**PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE**

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After the Board considered the prior art cited by Petitioner and granted institution, PO abandoned its defense of claims 1, 2, 25, 29, 80, and 81 (POR, 18-22), essentially conceding that their limitations did not constitute patentable distinctions over the work of others.<sup>1</sup>

Having made this concession, PO falls back to the position that certain elements distinguish a handful of remaining claims from the prior art: (1) the use of a “human consensus sequence” as the human framework (claims 4, 33, 62, 64 and 69), (2) “lack of immunogenicity as compared to a non-human parent antibody” (claim 63), (3) “up to 3-fold more” binding affinity than the parent antibody (claim 65), and (4) binding to p185<sup>HER2</sup> (claim 30). (POR, 1-4.) PO also alleges that even if some of the claimed substitutions were explicitly disclosed in the prior art, not all of them were. (POR, 3-4.) These elements do not make the otherwise-obvious claims patentable, however.

Elements (1)-(4) above affect only a small number of claims. PO's arguments do not change the fact that each element was explicitly disclosed in, or obvious from, the prior art.

PO's allegation that not all of the claimed residues are explicitly disclosed in the prior art ignores all that the prior art teaches, as well as the limitations of what

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<sup>1</sup> Therefore, this Reply addresses the remaining challenged claims: 4, 12, 30, 31, 33, 42, 60, 62-67, 69, and 71-79.

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