

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CELLTRION, INC.,
Petitioner

v.

GENENTECH, INC.,
Patent Owner.

Case IPR2017-01373
Case IPR2017-01374
(Patent 6,407,213 B1)

Before SHERIDAN K. SNEDDEN, ZHENYU YANG, and
ROBERT A. POLLOCK, *Administrative Patent Judges*.

POLLOCK, *Administrative Patent Judge*.

ORDER

Amending Grant of Request for Oral Argument
37 C.F.R. § 42.70

On June 29, 2018, we granted the parties request for oral hearing. Paper 67.¹ In that Order, we indicated that the proceeding would be open to the public such that disclosure of confidential information at the hearing would constitute a waiver of any claim to confidentiality. *See id.* at 2–3.

On July 10, 2018, we received an email from Patent Owner’s counsel stating:

In view of the protective order and the Board’s prior order granting Patent Owner’s motion to seal in each of these proceedings, Patent Owner requests to seal the portions of the hearing and the demonstratives that relate to antedation for 30 days after receipt of the hearing transcript by the parties. During the 30 days, the parties may agree to, or request the Board to, continue to seal all or a portion thereof. Because both proceedings implicate the same material, Patent Owner does not object to having counsel for Pfizer, Celltrion, and Samsung present at each hearing.

Patent Owner has discussed this proposal with Petitioners, and Petitioners do not oppose sealing the portions of the hearing and the demonstratives as outlined above. Should the Board wish to discuss this issue on a conference call, the parties are generally available on Thursday (except from 11:30-1 ET).

Ex. 3002.

We grant Patent Owner’s request in part. In particular, it is ORDERED that the hearing will remain open to the public to the extent possible. Prior to discussing confidential information relating to antedation argument, the disclosing party will request that the panel clear the hearing room of persons not authorized to access that information. The parties shall be responsible for identifying such persons.

¹ For convenience we refer to papers as numbered in IPR2017-01373.

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FURTHER ORDERED that the hearing transcript shall be temporarily designated Board and Parties Only. Within 10 business days of receipt of the transcript, Patent Owner may file a motion identifying those portions disclosing confidential information relating to antedation and request that they remain sealed.

FURTHER ORDERED that Patent Owner's request to seal demonstratives is denied. As noted in our Scheduling Order: "Notwithstanding 37 C.F.R. § 42.70(b), each party shall, instead of filing, provide a courtesy copy of the demonstrative exhibits to the Board by emailing them to Trials@uspto.gov." Paper 67, 3. Accordingly, we discern no need for sealing. Parties shall, nevertheless, designate whether an exhibit discloses confidential information subject to the protective order.

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