

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Celltrion, Inc.
Petitioner,

v.

Genentech, Inc.
Patent Owner.

Inter Partes Review No. IPR2017-01374
Patent No. 6,407,213

PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE
SUBMITTED WITH PATENT OWNER'S RESPONSE

Pursuant to 37 C.F.R. § 42.64(b)(1) and the Federal Rules of Evidence (“FRE”), Petitioner Celltrion, Inc. (“Celltrion”) objects to the admissibility of evidence filed by Patent Owner Genentech, Inc. on March 8, 2018, with its Patent Owner’s Response.

1. Exhibits 2007-2009, Exhibit 2037

Celltrion objects to Exhibits 2007-2009 and Exhibit 2037 as not authenticated under FRE 901.

2. Exhibits 2002, Exhibit 2016

Celltrion objects to Exhibit 2002 at pages 34-36 under FRE 106 as including a document that is incomplete, under FRE 901 as lacking authentication, and under FRE 802 as inadmissible hearsay, not within any hearsay exception. Celltrion also objects to paragraphs 38, 39, and 45-48 of Exhibit 2016 for the same reasons for relying on the objected-to document, and because these paragraphs include inadmissible hearsay under FRE 802, not within any hearsay exception.

Celltrion further objects to paragraphs 23, 49, 50, and 52 of Exhibit 2016 under FRE 602 as lacking foundation.

3. Exhibit 2006, Exhibit 2018

Celltrion objects to Exhibit 2006 at pages 83 and 84 under FRE 901 as including documents that lack authentication.

Celltrion also objects to paragraphs 14 and 19-22 of Exhibit 2018 under FRE 901 for the same reasons for relying on these objected-to documents, and because these paragraphs include inadmissible hearsay under FRE 802, not within any hearsay exception.

Celltrion further objects to paragraphs 13, 21, and 23 of Exhibit 2018 under FRE 602 for lacking foundation.

4. Exhibit 2003, Exhibit 2012, Exhibit 2013, Exhibit 2014, Exhibit 2015, Exhibit 2017

Celltrion objects to Exhibits 2012 and 2013 under FRE 602 as lacking foundation, and to paragraphs 72 and 40 of Exhibit 2017 for the same reasons for respectively relying on the objected-to documents.

Celltrion objects to Exhibit 2014 under FRE 901 as not authenticated, under FRE 602 as lacking foundation, and under FRE 802 as inadmissible hearsay, not within any hearsay exception. Celltrion further objects to paragraph 56 of Exhibit 2017 for relying on this objected-to document.

Celltrion objects to Exhibit 2015 as not authenticated under FRE 901. Celltrion further objects to this exhibit because it is inadmissible hearsay under FRE 802, not within any hearsay exception. Celltrion objects to paragraphs 15 and 78 of Exhibit 2017 for relying on the objected-to document.

Celltrion objects to Exhibit 2003 at pages 20-22 under FRE 901 as including a document that lacks authentication and is inadmissible hearsay under FRE 802,

not within any hearsay exception. Celltrion also objects to paragraphs 23-29 of Exhibit 2017 for the same reasons for relying on the objected-to document, and because these paragraphs include inadmissible hearsay under FRE 802, not within any hearsay exception.

Further, Exhibit 2003 includes pages at the end of the document that lack internal page numbers. The identity of these pages is unclear, and therefore, Celltrion objects to this exhibit as not authenticated under FRE 901.

5. Exhibit 2021, Exhibit 2042, Exhibit 2043, Exhibit 2044, Exhibit 2053, Exhibit 2055, Exhibit 2059, Exhibit 2060, and Exhibit 2061

Exhibit 2021, Exhibit 2042, Exhibit 2043, Exhibit 2044, Exhibit 2053, Exhibit 2055, Exhibit 2059, Exhibit 2060, and Exhibit 2061 all published after the earliest filing date of the '213 patent and therefore cannot provide any information as to the knowledge of a person of ordinary skill in the art or the state of the art as of the date of the patent. Therefore, Celltrion objects to these exhibits under FRE 401 and 402 because they are not relevant under FRE 401 and therefore not admissible under FRE 402. Celltrion further objects to these exhibits under FRE 403 because any probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, wasting time, or needlessly presenting cumulative evidence. Celltrion further objects to these exhibits as not authenticated under FRE 901. Celltrion further objects to these exhibits because it is inadmissible hearsay under FRE 802, not within any hearsay exception.

6. Exhibit 2029

There is no evidence in the record establishing the identity of Exhibit 2029. Therefore, Celltrion objects to this exhibit as not authenticated under FRE 901. Celltrion further objects to this exhibit because it is inadmissible hearsay under FRE 802, not within any hearsay exception.

7. Exhibit 2041

Celltrion objects to paragraphs 25, 36-37, 48, 65, 172, 180, 186, and 231 of Exhibit 2041 under FRE 602 as lacking foundation. Patent Owner's expert does provide any citations or support for the statements in these paragraphs; therefore, Patent Owner's expert has not provided suitable foundation for these opinions.

Celltrion further objects to paragraphs 70, 86, 263, and 264 as they rely on art published after the earliest filing date of the '213 patent that cannot provide any information as to the knowledge of a person of ordinary skill in the art or the state of the art as of the date of the patent. Therefore, Celltrion objects to these paragraphs under FRE 401 and 402 because they are not relevant under FRE 401 and therefore not admissible under FRE 402. Celltrion further objects to these paragraphs under FRE 403 because any probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, wasting time, or needlessly presenting cumulative evidence. Celltrion further objects to these

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