

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. IPR2017-01374

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

**Table of Contents**

I. Patent Owner's Attempts to Establish an Earlier Date of Invention for Claims 12, 42, 60, 65, 71, 73-74, and 79 Are Insufficient .....3

II. All Challenged Claims of the '213 Patent are Anticipated by and/or Obvious Over Kurrle and/or Queen-1990, Optionally in Light of Furey, Chothia & Lesk, Chothia 1985, and/or Hudziak .....7

A. A POSA Following the Teachings of the Prior Art Would Have Identified the Residues Listed in Claims 12, 42, 60, 65-67, and 71-79 for Substitution.....7

B. The Limitation "Which Bind [an Antigen]" in Claims 4, 33, 62, 66-67, 69, 71-72, 75-76, and 78 Is Taught by the Prior Art .....12

C. Queen-1990 Teaches the "Consensus" Sequence Limitation .....13

D. The "Up to 3-Fold More Binding Affinity" Limitation of Claim 65 Was Taught By the Prior Art.....15

E. The "Lack Immunogenicity Compared to a Non-Human Parent" Limitation of Claim 63 Was Taught By the Prior Art .....15

F. The Limitations Related to Binding p185<sup>HER2</sup> of Claims 30-31, 33, 42, and 60 Was Taught By the Prior Art.....17

III. Secondary Considerations of Non-Obviousness Do Not Render the Challenged Claims Nonobvious .....18

A. The Use of a Consensus Sequence Would Not Have Been Unexpected .....18

B. PO Has Not Established that the Alleged Unexpected Results and Commercial Success Have a Nexus to the Challenged Claims .....19

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>Chiron Corp. v. Genentech Inc.</i> , 363 F.3d 1247 (Fed. Cir. 2004) .....	6
<i>Coleman v. Dines</i> , 754 F.2d 353 (Fed. Cir. 1985) .....	4
<i>Ecolochem, Inc. v. S. Cal. Edison Co.</i> , 227 F.3d 1361 (Fed. Cir. 2000) .....	4
<i>Ecolochem, Inc. v. S. Cal. Edison Co.</i> , 91 F.3d 169, 1996 WL 297601 (Fed. Cir. 1996) .....	3, 8
<i>KSR Int'l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007).....	10
<i>In re Kubin</i> , 561 F.3d 1351 (Fed. Cir. 2009) .....	13
<i>Mahurkar v. C.R. Bard, Inc.</i> , 79 F.3d 1572 (Fed. Cir. 1996) .....	4
<i>Medichem, S.A. v. Rolabo, S.L.</i> , 437 F.3d 1157 (Fed. Cir. 2006) .....	4
<i>Ormco Corp. v. Align Tech., Inc.</i> , 463 F.3d 1299 (Fed. Cir. 2006) .....	19
<i>In re Peterson</i> , 315 F.3d 1325 (Fed. Cir. 2003) .....	11
<i>Santarus, Inc. v. Par Pharm., Inc.</i> , 694 F.3d 1344 (Fed. Cir. 2012) .....	16
<i>Ex Parte Takeshi Shimono</i> , Appeal 2013–003410 (PTAB Apr. 29, 2015).....	19

**Statutes**

35 U.S.C. §102(b) .....6

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, 20), 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, 1-5.) 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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