

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CELLTRION, INC.
Petitioners,

v.

GENENTECH, INC.,
Patent Owner.

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

Before ZHENYU YANG, and ROBERT A. POLLOCK,
Administrative Patent Judges.

POLLOCK, *Administrative Patent Judge.*

ORDER
Granting Request for Oral Argument
37 C.F.R. § 42.70

Petitioner Celltrion, Inc., and Patent Owner Genentech, Inc., each requested oral argument in this *inter partes* review trial pursuant to 37 C.F.R. § 42.70. Papers 65 and 60, respectively.¹ Upon consideration, these requests are *granted*. Oral argument shall commence at 1 PM Eastern Time on July 16, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. Each party will have fifty minutes of total time to present arguments.

The Petitioner bears the ultimate burden of proof that the claims at issue in this review are unpatentable. Therefore, Petitioner will open the hearing by presenting argument regarding the pending grounds of unpatentability. Patent Owner will then have the opportunity to respond to Petitioner's arguments. If desired, Petitioner may reserve rebuttal time to respond to arguments presented by Patent Owner.

The Board will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing. There will be only one transcript, which will be entered into each case. If an argument is not applicable to both cases, the presenter should clearly state which case the argument is directed to.

The hearing will be open to the public for in-person attendance, which will be accommodated on a first come, first served basis. Certain confidential information previously has been sealed under a Protective Order entered in these proceedings. *See, e.g.*, Paper 17, 3. The parties are advised to not include any confidential information in the demonstrative exhibits or specifically refer to it in the arguments. Alternatively, the party originally

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

moved to seal the information may waive its request and choose to disclose and rely on the information during the oral argument.

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. Pursuant to 37 C.F.R. § 42.70(b), demonstrative exhibits are generally served on opposing counsel at least five business days before the hearing, and filed with the Board no later than the time of the oral argument. By email dated June 28, 2018, Petitioner requests that we extend the deadline for service of demonstratives to 10 PM Eastern Time on July 11, 2018. Ex. 3001.² Petitioner avers that Patent Owner does not oppose a mutual extension of time. Accordingly, Petitioners request is granted.

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 no later than 8 AM Eastern Time on July 13, 2018.

Due to the nature of the demonstrative exhibits, the panel does not anticipate that objections to such exhibits would likely be sustained. Nevertheless, to the extent that there is any objection to the propriety of the

² Exhibit 3001 is an email sent by counsel for Petitioner Pfizer in IPR2017-01488 and IPR2017-01489, which relate to the same patent at issue here and are scheduled for oral argument on the same day. Because that email copies counsel for Petitioner Celltrion in IPR2017-01373 and IPR2017-01374, we presume that Celltrion joins in the request. Counsel should contact the Board immediately if this is not intended.

demonstrative exhibits, the parties shall meet and confer in good faith to resolve any issue. If the parties cannot resolve the issues regarding the demonstrative exhibits on their own, the objecting party may file a one-page list of its objections to the demonstrative exhibits with the Board no later than 8 AM Eastern Time on July 13, 2018. The objecting party should identify with particularity which portions of the demonstrative exhibits it objects to, and include a one-sentence statement of the reason for each objection. No argument or further explanation is permitted. The panel will schedule a conference call if necessary. Any objection to demonstrative exhibits that is not timely presented will be considered waived.

The parties are reminded that each presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to ensure the clarity and accuracy of the reporter's transcript. Upon introducing a demonstrative exhibit during oral argument that includes argument or evidence subject to a motion to strike or exclude, the introducing party shall inform the panel that such motion is pending.

The Board expects lead counsel for each party to be present in person at the oral hearing. Any counsel of record, however, may present the party's argument. If either party anticipates that its lead counsel will not be attending the oral argument, 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 special requests for audio visual equipment should be directed to Trials@uspto.gov.

ORDER

In light of the foregoing, it is:

ORDERED that oral hearing, conducted pursuant to the procedures outlined above, shall commence at 1 PM Eastern Time on July 16, 2018;

FURTHER ORDERED that the parties shall exchange demonstratives no later than 10 PM Eastern Time on July 11, 2018;

FURTHER ORDERED that each party shall email a courtesy copy of its demonstrative exhibits to the Board no later than 8 AM Eastern Time on July 13, 2018;

FURTHER ORDERED that each party may file a one-page list of its objections to demonstrative exhibits no later than 8 AM Eastern Time on July 13, 2018.

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