

Patent Owner's Opposition to Petitioner's Motion to Exclude

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CELLTRION, INC.,
Petitioner,

v.

GENENTECH, INC.,
Patent Owner.

Case IPR2017-01374
U.S. Patent No. 6,407,213

**PATENT OWNER'S OPPOSITION TO
PETITIONER'S MOTION TO EXCLUDE EVIDENCE**

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1 Weinstein’s Evidence Manual § 16.07 (2018)7

I. PATENT OWNER'S ANTEDATION EVIDENCE IS ADMISSIBLE.**A. Exhibits 2001-2009 Are Properly Authenticated And Are Accurate Copies Of Patent Owner's Official Records.***1. Exhibits 2001-2009 are properly authenticated.*

The core of Petitioner's objection is that Exhibits 2001 to 2009 are copies of Patent Owner's lab notebooks and there is a second set of copies of those lab notebooks not in evidence. But the existence of a second copy of the underlying notebooks in the form of a microfilm is not a basis to exclude the high-resolution color scans submitted as Exhibits 2001-2009. As explained by Patent Owner's records custodian, Ms. Loeffler, the original lab notebooks are Genentech's official record of the research (Ex. 1141 at 42:22-25), and Exhibits 2001-2009 are copies of the original notebooks (Ex. 2019, ¶4). The microfilms are also copies of the original notebooks and exist for "disaster recovery" purposes. (Ex. 1141 at 42:13-21.) But that does not make a high-resolution, color scan of the same notebook inadmissible. Indeed, Ms. Loeffler testified that Genentech uses the color scans for the same purpose as the microfilms. (*Id.* at 42:16-43:13.)

Specifically, Petitioner argues that Patent Owner has not authenticated Exhibits 2001-2006 because the authors of those lab notebooks could not definitively say which copy was submitted—a microfilm copy or a high-resolution scan copy. (Paper 62 at 2-3.) As an initial matter, the authors' inability to identify whether the exhibits were the microfilmed notebooks or the scans only proves that

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