

Filed on behalf of Patent Owner Genentech, Inc. by:

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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
Patent 6,407,213

PATENT OWNER'S RENEWED MOTION TO SEAL

STATEMENT OF PRECISE RELIEF REQUESTED

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, and the Board's Final Written Decision, Paper 85, Patent Owner Genentech, Inc. respectfully submits this renewed motion to seal certain parts of Exhibits 2001 (Laboratory Notebook 10098 (Leonard Presta)), 2002 (Laboratory Notebook 10823 (Leonard Presta)), 2005 (Laboratory Notebook 10840 (John Brady)), and 2006 (Laboratory Notebook 11162 (John Brady)) that describe confidential research unrelated to the issues in this proceeding. Patent Owner files concurrently with this motion redacted versions of these exhibits.

As discussed below, Patent Owner is only seeking to seal certain portions of Exhibits 2001, 2002, 2005, and 2006 that are not relevant to any issue in this proceeding and that were not relied upon in the Final Written Decision. Given the public disclosure of Genentech's work humanizing the 4D5 antibody at the oral hearing and the Board's reliance on that work in its Final Written Decision, *see* Paper 85 at 17-25, Patent Owner does not request the sealing of the Final Written Decision, any paper previously filed in this proceeding, or any other exhibit submitted in this proceeding.

REASONS FOR RELIEF REQUESTED

Although "the default rule is that all papers filed in an *inter partes* review are open and available for access by the public," a party may file a motion with the

Board to seal confidential information that is protected from disclosure. *Garmin v. Cuozzo*, IPR2012-00001, Paper No. 36. “The standard for granting a motion to seal is ‘for good cause.’” *Id.* (quoting 37 C.F.R. § 42.54); *see Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 3-4 (Jan. 19, 2018) (informative). The *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012), states that the “rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure (“FRCP”) 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.”

The parties have conferred and agreed to the provisions of the Modified Default Standing Protective Order set forth in Exhibit 2030, and have stipulated to be bound to the terms set forth therein. Exhibit 2031 shows the proposed modifications from the Default Standing Protective Order, to which the parties have stipulated, in redline. The Modified Default Standing Protective Order provides:

Where confidentiality is alleged as to some but not all of the information submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the confidential version setting forth the reasons why the information redacted from the non-confidential version is

confidential and should not be made available to the public. The nonconfidential version of the submission shall clearly indicate the locations of information that has been redacted. The confidential version of the submission shall be filed under seal. The redacted information shall remain under seal unless, upon motion of a party and after a hearing on the issue, or *sua sponte*, the Board determines that some or all of the redacted information does not qualify for confidential treatment.

(Ex. 2030, Modified Default Standing Protective Order and Patent Owner's Certification of Agreement to Terms, at 3-4.)

Exhibits 2001 and 2002 are laboratory notebooks authored by Dr. Leonard Presta, who is an inventor of U.S. Patent No. 6,407,213 ("the '213 patent"). Exhibits 2001 and 2002 describe Dr. Presta's work humanizing the 4D5 antibody, which is described in the '213 patent. But Exhibits 2001 and 2002 also describe Dr. Presta's confidential research on other projects that are unrelated to the issues in this proceeding and that occurred after his work humanizing the 4D5 antibody. Patent Owner requests to seal the description of these unrelated experiments in the table of contents on page 5 of Exhibit 2001, as well as the detailed experimental description on pages 42-90 of Exhibit 2001 and pages 40-68 of Exhibit 2002.

Exhibits 2005 and 2006 are laboratory notebooks authored by Mr. John Ridgeway Brady, which corroborate the inventors' work relating to the '213 patent. Patent Owner does not request to seal any portion of Mr. Brady's notebooks cited or discussed in these proceedings. However, there are certain experiments in the beginning of Exhibits 2005 and 2006 that do not relate to humanized 4D5 antibodies and therefore are not relevant to the issue of corroboration or any other issue in these proceedings. Patent Owner requests to seal the details of this confidential research that does not involve humanized 4D5 antibodies on pages 13-72 of Exhibit 2005 and pages 13-46 of Exhibit 2006.

The material that Patent Owner requests to seal is maintained confidentially at Genentech, and the public disclosure of such confidential research and development materials would place Genentech at a competitive disadvantage. Patent Owner is submitting concurrently herewith redacted versions of Exhibits 2001, 2002, 2005, and 2006, and attests that the materials sought to be protected is not directly or indirectly relied on in the Board's Final Written Decision. Rather, the only information that Patent Owner is seeking to redact in Exhibits 2001, 2002, 2005, and 2006 are the details of confidential experiments unrelated to the issues in

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