

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TARO PHARMACEUTICALS U.S.A., INC.,
Petitioner,

v.

APOTEX TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2017-01446
Patent 7,049,328 B2

Before JEFFREY N. FREDMAN, ZHENYU YANG, and
MICHELLE N. ANKENBRAND, *Administrative Patent Judges*.

FREDMAN, *Administrative Patent Judge*.

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

Pursuant to 37 C.F.R. § 42.70, the Scheduling Order (Paper 8), and the Joint Notice of Stipulation to Revised Schedule (Paper 28), both parties have requested oral hearing. Papers 47, 49. The parties' requests for oral hearing are granted.

Time and Format

Oral arguments will commence at **1:00 PM Eastern Time on August 9, 2018**, on the 9th floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. Each side will have a total of **45 minutes** to present arguments during the hearing.

Petitioner will open the hearing and may present arguments regarding any of the challenged claims or grounds and its Motion to Exclude. Patent Owner will then respond to Petitioner's arguments, and may additionally present its arguments regarding its Motion to Exclude. Petitioner may reserve rebuttal time to respond to Patent Owner's arguments on all issues.

The Board will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing and will be entered into the case.

The hearing will be open to the public for in-person attendance, which will be accommodated on a first come, first served basis. The parties are reminded that certain confidential information previously has been sealed under a Protective Order entered in this proceeding. *See, e.g.*, Papers 35, 37. The parties are advised to not include any confidential information in the demonstrative exhibits or specifically refer to confidential information in the arguments. Alternatively, the party that originally moved to seal the information may waive its request and choose to disclose and rely on the confidential information during the oral argument.

Demonstratives

Demonstrative exhibits shall be served on opposing counsel by July 31, 2018. 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 at

least three business days prior to the hearing by emailing them to Trials@uspto.gov.

Any argument presented in the demonstrative exhibits must be supported by evidence already of record. The demonstrative exhibits, however, are not evidence. Instead, they are intended to assist the parties in presenting their oral arguments to the Board. Also, the demonstrative exhibits are not a mechanism for making arguments not previously presented. The panel will not consider arguments or evidence appearing only in demonstrative exhibits.

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 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 at least two business days before the hearing. 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.

To aid in the preparation of an accurate transcript, each party shall provide a paper copy of any demonstratives to the court reporter on the day of the oral arguments. Such paper copies will not become part of the record of this proceeding.

In addition, at least one member of the panel may be attending the hearing electronically from a remote location and may not be able to view the projection screen in the hearing room. In particular, documents presented on the Elmo projector are not visible to remote judges, so please plan accordingly. If a demonstrative exhibit is not made available or visible to the judge(s) presiding over the hearing remotely, that demonstrative will not be considered. 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 and for the benefit of the judge(s) presiding over the hearing remotely. The presenter should speak only when standing at the hearing room lectern because there are limitations on the audio transmission systems in our hearing rooms.

Lead Counsel

The Board expects lead counsel for each party to be present at the oral hearing, although any counsel of record may present the party's argument. If either lead counsel is unable to be present at the hearing, the Board shall be advised by email no later than two business days prior to the oral hearing, and such lead counsel shall be available for a conference call if necessary.

Audio/Visual Equipment Requests

Questions regarding specific audio-visual equipment should be directed to the Board at (571) 272-9797. Requests for audio-visual equipment must be made five business days prior to the hearing date. The request is to be sent to Trials@uspto.gov. If the request is not received timely, the equipment may not be available on the day of the hearing.

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