

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PFIZER, INC.,
Petitioner,

v.

GENENTECH, INC.,
Patent Owner.

Case IPR2017-01488
Case IPR2017-01489
Patent 6,407,213 B2¹

Before SHERIDAN K. SNEDDEN, ZHENYU YANG, and
ROBERT A. POLLOCK, *Administrative Patent Judges*.

POLLOCK, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

In an email communication dated September 21, 2017, Petitioner requested a conference call to discuss 1) the correction of a typographical

¹ This Order addresses issues that are common to each of the above-referenced cases. We, therefore, issue a single Order that has been entered in each case. Absent express authorization, the parties may not use this style caption when filing a single paper in multiple proceedings.

IPR2017-01488
IPR2017-01489
Patent 6,407,213 B2

error, and 2) the filing of Replies to Patent Owner's Preliminary Responses. Ex. 3001. The requested conference call was conducted on September 26, 2017, between Judges Pollock, Snedden, and Yang; Petitioner's counsel Amanda Hollis and Stefan Miller; and Patent Owner's counsel Robert Gunther, David Cavanaugh, and Andrew Danford.

With respect to the first issue, Petitioner requests leave to correct a clerical error in IPR2017-01489, wherein claim 65 was inadvertently omitted from the identification of proposed Grounds 1 and 2 at page 5 of the Petition. Patent Owner does not oppose the request. Because Petitioner's intent to include claim 65 in these grounds is evident from the Petition, we take notice of the proposed amendment to the Petition. A replacement Petition is not required.

With respect to the second issue, Petitioner seeks authorization to file a 15 page Reply brief to Patent Owner's Preliminary Response in each of IPR2017-01488 and IPR2017-01489, relating to Patent Owner's attempts to antedate the Queen 1990 reference. Patent Owner takes no position regarding whether Reply briefs are necessary but suggests that 7 pages would be sufficient and that it should be accorded an opportunity to respond to any such argument.

Petitioner's request for Reply briefs addressing Patent Owner's Preliminary Responses is denied as premature. Petitioner may address Patent Owner's evidence and argument on antedating if the panel institutes *inter partes* review proceedings.

It is, therefore,

IPR2017-01488
IPR2017-01489
Patent 6,407,213 B2

ORDERED that Grounds 1 and 2 of IPR2017-01489 are deemed to encompass challenges to claim 65 of Patent No. 6,407,213; and

FURTHER ORDERED that Petitioner's requests for authorization to file Reply briefs in IPR2017-01488 and IPR2017-01489 are denied.

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