

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PFIZER, INC., and
SAMSUNG BIOEPIS CO., LTD.¹
Petitioners,

v.

GENENTECH, INC.,
Patent Owner.

Case IPR2017-01488 (Patent 6,407,213 B1)
Case IPR2017-01489 (Patent 6,407,213 B1)²

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

¹ Samsung Bioepis Co. Ltd.'s IPR2017-02139 and IPR2017-02140 have been joined with IPR2017-01488 and 01489, respectively.

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Petitioner Pfizer, 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 62, respectively.³ Upon consideration, these requests are *granted*. Oral argument shall commence at 3 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.

Petitioners bear the ultimate burden of proof that the claims at issue in this review are unpatentable. Therefore, Petitioners will open the hearing by presenting argument regarding the pending grounds of unpatentability. Patent Owner will then have the opportunity to respond to Petitioners' arguments. If desired, Petitioners 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 25. 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

³ For convenience we refer to papers as numbered in IPR2017-01488.

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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, Petitioners request that we extend the deadline for service of demonstratives to 10 PM Eastern Time on July 11, 2018. Ex. 3002. Petitioners aver 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 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

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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.⁴ 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:

⁴ As per our decision joining, e.g., case IPR2017-02139 with IPR2017-01488, we expect counsel for Petitioner Pfizer to present a single argument on behalf of Petitioners. Paper 42, 7.

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ORDERED that oral hearing, conducted pursuant to the procedures outlined above, shall commence at 3 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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