

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WEST-WARD PHARMACEUTICALS INTERNATIONAL LIMITED,
Petitioner,

v.

NOVARTIS PHARMACEUTICALS CORP.,
Patent Owner.

Case IPR2017-01592¹
Patent 8,410,131 B2

Before SHERIDAN K. SNEDDEN, ROBERT A. POLLOCK, and
JACQUELINE T. HARLOW, *Administrative Patent Judges*.

POLLOCK, *Administrative Patent Judge*.

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

¹ IPR2018-00507 has been joined to this proceeding.

Both parties have requested oral hearing pursuant to 37 C.F.R. § 42.70, and the January 3, 2018 Scheduling Order (Paper 13). Papers 58, 58. The parties' requests for oral hearing are *granted*.

Time and Format

Oral argument will commence at **1:00 PM Eastern Time on September 19, 2018**, on the ninth floor of the Madison Building East, 600 Dulany Street, Alexandria, Virginia. As requested by both parties, the hearing will be held in Hearing Room A. The hearing will be open to the public for in-person attendance, which will be accommodated on a first come, first served basis.

Each side will have a total of 60 minutes to present arguments. Petitioner will open the hearing and may present arguments regarding the challenged claims for which the Board instituted trial 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 up to 30 minutes of rebuttal time to respond to Patent Owner's arguments on all issues. Patent Owner may reserve up to 10 minutes for sur-rebuttal.

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 all cases, the presenter should clearly state which case the argument is directed to.

Demonstratives

At least seven 7 business days before the hearing date, each party shall serve on the other party any demonstrative exhibit(s) it intends to use during the hearing. *See* 37 C.F.R. § 42.70(b). 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 full 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. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB January 27, 2014) (Paper 65), for guidance regarding the appropriate content of 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 three full 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.

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. When introducing a demonstrative slide relating to information subject to a motion to exclude or strike, counsel will briefly note that status on the oral record.

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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PETITIONER:

David Evans
Marta Delsignore
Jeffrey Blake
Melissa Hayworth
devans@merchantgould.com
mdelsignore@goodwinprocter.com
jblake@merchantgould.com
mhayworth@merchantgould.com

PATENT OWNER:

Nicholas N. Kallas
Laura K. Fishwick
Christina Schwarz
Jared L. Stringham
FITZPATRICK, CELLA, HARPER & SCINTO
nkallas@fchs.com
lfishwick@fchs.com
cschwarz@fchs.com
jstringham@fchs.com
ZortressAfinitorIPR@fchs.com