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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NEPTUNE GENERICS, LLC

PETITIONER

V.

AVENTIS PHARMA, S.A.

PATENT OWNER

CASE NO. IPR2019-00136

PATENT NO. 5,847,170

FILED: MARCH 26, 1996

ISSUED: DECEMBER 8, 1998

INVENTORS: HERVÈ BOUCHARD,

JEAN-DOMINIQUE BOURZAT, ALAIN COMMERÇON

TITLE: TAXOIDS, THEIR PREPARATION, AND
PHARMACEUTICAL COMPOSITIONS CONTAINING THEM

TELEPHONE CONFERENCE

FRIDAY, FEBRUARY 28, 2019, 12:03 P.M. CENTRAL STANDARD TIME

BEFORE JUDGES TIMOTHY G. MAJORS AND

TINA HULSE

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(Pro hac vice application to be submitted)

On behalf of Neptune Generics, LLC.

* * * * *

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1 THE COURT: Would counsel please identify
2 themselves?

3 MR. GASSER: Alex Gasser for the Petitioner.

4 MS. MALMBERG: Mieke Malmberg for the Petitioner.

5 THE COURT: And for patent owner?

6 MR. MINION: Good afternoon, your Honor. This is
7 Daniel Minion on behalf of patent owner, Sanofi.

8 THE COURT: Hello, Mr. Minion. Anyone else on
9 line for the patent owner?

10 MR. MINION: Just me, your Honor.

11 THE COURT: All right. I take it that's everyone
12 then.

13 Did you get what you need, Court Reporter?

14 THE COURT REPORTER: Yes. And like I said, if
15 they could just state their names before they speak just so I
16 make sure I have everything straight, that will help me a
17 lot.

18 THE COURT: We'll do our best.

19 THE COURT REPORTER: Thank you so much, Judge.

20 THE COURT: Why don't we go ahead and begin then.

21 We're here today based on a request for a
22 conference from the petitioner. This is in regards to
23 IPR2019-00136, Neptune Generics vs. Aventis.

24 What we will go ahead and do, since petitioner

1 requested this call -- and we just did the email, and so we
2 know the general nature of the request, but we'll open the
3 floor up to petitioner's counsel. And then, Mr. Minion,
4 you'll have an opportunity to respond.

5 MR. GASSER: Thank you, your Honors. This is Alex
6 Gasser for petitioner, Neptune.

7 As we indicated in our email from last week,
8 petitioner requests authorization to file a reply brief to
9 patent owner's preliminary response. Our request for
10 authorization is pursuant to 37 CFR, Section 42.108(c).

11 As we indicated in our email, there are
12 three general areas that we think are appropriate for a reply
13 brief and that they're good grounds to have such a reply
14 brief on the subjects. The primary area, which our
15 understanding is, the PTAB generally does regularly consider
16 replies for the Section 327(d) discretionary input for
17 arguments and issues relating to prior arguments that were
18 presented to the patent office, whether through an
19 examination or a formal IPR petition. I think our -- our
20 main arguments focus on that particular prong.

21 Also, in addition to that, we do believe that
22 there is additional reason to allow a reply brief on the
23 314 -- Section 314 arguments -- the discretionary arguments,
24 as well as just one legal, critical issue that permeates

1 patent owner's entire patent response regarding the
2 standard -- the proper standard for obviousness.

3 But just, very briefly, launching into the first
4 prong of the reason for good cause for a reply brief would be
5 the 325(d) arguments which focused primarily on the
6 earlier -- the differences between the earlier IPR petition
7 filed by a different party, Mylan Pharmaceutical, against the
8 same patent by Sanofi.

9 There are several issues relating to the 320, but
10 the arguments that we could not have reasonably anticipated
11 (sic). Just briefly for review, our petition at present --
12 Neptune's petition relies on what we call (inaudible)
13 reference --

14 THE COURT REPORTER: What reference was that? I'm
15 sorry.

16 MR. GASSER: I'm sorry. Commercon,
17 C-o-m-m-e-r-c-o-n.

18 THE COURT REPORTER: Thank you.

19 MR. GASSER: Commercon reference which is
20 Exhibit 1009. And the Neptune petition relies on this
21 primary reference as a guide to take our lead compound which
22 is Paclitaxel and there's one change to the side chain. And
23 then we'll rely on this to inform a person of ordinary skill
24 in the art what portions of the remaining molecule should be

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