

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AQUESTIVE THERAPEUTICS, INC.

Petitioner

v.

NEURELIS, INC.

Patent Owner

Case: IPR2019-00451

U.S. Patent No. 9,763,876

PETITIONER'S MOTION TO EXCLUDE

PURSUANT TO 37 C.F.R. § 42.64(c)

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I. PRECISE RELIEF REQUESTED

Petitioner, Aquestive Therapeutics, Inc. (“Aquestive”) requests exclusion of the following Patent Owner (“Neurelis, Inc.”) exhibits 2001-2010; 2012-2024. Each exhibit is used in a manner contrary to the Federal Rules of Evidence (“FRE”), as adopted in 37 C.F.R. § 42.62. Unless otherwise noted, Petitioner’s objections appear in Paper 19.¹

II. SHOWINGS AND ARGUMENT

Petitioner submits the following objections:

A. Exhibit 2001: Epilepsy Fast Facts, CDC, 2019

Objections Preserved: Paper 19, p.1; PO’s Reliance: POPR 1; POR 3. Objections: FRE 402 (relevance); FRE 403 (confusion, waste, prejudice); FRE 802 (hearsay without exception); FRE 901 (authentication); FRE 105 (limited purpose). The exhibit is not relevant to any instituted ground. Exhibit 2001’s probative value is substantially outweighed by its confusion of the issues to be decided, its waste of the Board’s and Petitioner’s time, and the danger that it will lead to unfair

¹ The following abbreviations are used: Patent Owner (“PO”); PO’s Preliminary Response (Paper 7) (“POPR”); PO’s Response (Paper 16) (“POR”); PO’s Surreply (Paper 28) (“Surreply”); Declaration of Dr. Gizurarson (EX2012) (“GizurarsonDec.”); Petitioner’s Objections (Paper 19) (“Paper 19”).

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