

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC., CELLTRION, INC.,
and APOTEX, INC.,
Petitioners

v.

REGENERON PHARMACEUTICALS, INC.
Patent Owner

Case IPR2021-00880¹
Patent No. 9,669,069 B2

PATENT OWNER'S MOTION TO EXCLUDE

¹ IPR2022-00257 and IPR2022-00301 have been joined with this proceeding.

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Patent Trial and Appeal Board Consolidated Trial Practice Guide
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Pursuant to 37 C.F.R. § 42.64, Patent Owner Regeneron Pharmaceuticals, Inc. (“Patent Owner”) hereby moves to exclude (i) Portions of Petitioner Mylan Pharmaceuticals Inc.’s (“Petitioner”) Reply (Paper 56) that untimely present new arguments; (ii) Exhibit Nos. 1118, 1121 and 1124, which are not cited in the pleadings; and (iii) portions of Petitioner’s expert declarations not cited in the pleadings.² The Exhibits and portions of Petitioner’s Reply and expert declarations that Patent Owner seeks to exclude contravene 37 C.F.R. § 42.23(b) and/or are irrelevant under Federal Rule of Evidence 402. Pursuant to 37 C.F.R. § 42.64, Patent Owner timely raised its objections to these materials on November 24, 2021, and June 6, 2022 (Paper Nos. 30 and 60), and in its communication with the Board dated June 3, 2022.

I. INTRODUCTION

Petitioner’s Reply in this proceeding introduces new arguments that alter or expand its originally asserted Grounds 1-5. First, Petitioner argues for the first time on reply that VEGF Trap-Eye was “being distributed to others prior to the filing date.” Paper 56 at 17. Petitioner’s new conjecture expands the anticipation

² For ease of reference, a table listing specific locations of the Petitioner submissions that are the subject of this motion to exclude is included *infra* at 11-12.

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