

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.

Inter Partes Review No.: IPR2021-00881¹

U.S. Patent No. 9,254,338 B2
Filed: July 12, 2013
Issued: February 9, 2016
Inventor: George D. Yancopoulos

Title: USE OF A VEGF ANTAGONIST TO TREAT
ANGIOGENIC EYE DISORDERS

**PETITIONER'S REPLY TO PATENT OWNER'S OPPOSITION TO
PETITIONER'S MOTION TO EXCLUDE EVIDENCE**

¹ IPR2022-00258 and IPR2022-00298 have been joined with this proceeding.

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Patent Owner’s opposition misrepresents the law and the facts, and ultimately fails to rebut Petitioner’s showing that the challenged evidence is inadmissible.

I. Ms. Weber Failed to Authenticate the Weber Exhibits.

The authentication problems associated with the Weber Exhibits are glaring. Patent Owner (“PO”) does not dispute that Ms. Weber neither “authored [n]or maintained the documents,” or that they are not self-authenticating under Rule 902. (*See* Opp’n, 1-3). Instead, PO relies upon factually unsupported assertions that Ms. Weber “personally collected,” “reviewed,” and “confirmed that [the Weber Exhibits] are true and correct copies.” (*Id.*, 2). But, nothing in PO’s July 27 opposition brief changes the actual deposition testimony of Ms. Weber, which revealed serious authentication deficiencies.

For example, the Weber Declaration declares: “Exhibit 2280 is a true and correct copy of Regeneron’s ‘ATU Sales Share Data: Wet AMD,’ copyrighted 2021.” (Ex.2286, ¶32). At Ms. Weber’s deposition, Petitioner’s counsel probed the basis for this statement:

Q. Who drafted the original document that became Exhibit 2280?

A. I don’t know.

Q. Was the original -- is the original document that became Exhibit 2280 stored electronically at Regeneron?

A. I don’t know.

Q. Is it stored as a hard copy?

A. I don’t know.

Q. Paragraph thirty-two of your declaration states copyrighted 2021. Do you see that?

A. Yes.

- Q. Do you see any indication on the document itself on Exhibit 2280 that it was copyrighted 2021?
- A. No.
- Q. What's the basis for your statement in your declaration?
- A. It was provided by counsel.
- Q. Look at Exhibit 2280, do you see any of the words "ATU sales share data wet AMD"?
- A. No.
- Q. And looking at Exhibit 4, Eric Yang is identified as the custodian for this document, for this exhibit. Did you speak with Mr. Yang about Exhibit 2280?
- A. Yes, counsel and I did.
- Q. Was this conversation after you submitted your declaration?
- A. Yes.
- Q. Are there any details regarding that conversation reflected in your declaration?
- A. No.

(Ex.1150, 115:14-117:3 (objections omitted)). Ms. Weber's testimony on Exhibit 2133 is similarly exemplary of the authentication deficiencies of all Weber Exhibits:

- Q. Who drafted the original document that became Exhibit 2133?
- A. I do not know.
- Q. Is this document stored electronically on Regeneron's servers?
- A. I don't know.
- Q. Is it stored as a hard copy at Regeneron?
- A. I don't know.
- Q. Did you create Exhibit 2133?
- A. No.
- Q. Who created Exhibit 2133?
- A. I don't know.
- Q. What did you do to ensure that Exhibit 2133 is a true and correct copy of Regeneron's earnings call transcript of February 13, 2012?
- A. I sat with counsel and we reviewed the document.

(*Id.*, 47:4-25 (objections omitted)). Ms. Weber's position and dates of employment at PO did not provide her with knowledge of PO's document creation and record-

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