

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SLAYBACK PHARMA LLC,
Petitioner,

v.

EYE THERAPIES, LLC,
Patent Owner.

IPR2022-00142
Patent 8,293,742 B2

Before TINA E. HULSE, ROBERT A. POLLOCK, and RYAN H. FLAX,
Administrative Patent Judges.

HULSE, *Administrative Patent Judge.*

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

Oral argument in this proceeding has been set for February 27, 2023, at the USPTO Headquarters in Alexandria, Virginia. Paper 54, 1. In an e-mail correspondence to the Board, Patent Owner notified the Board that certain information that may be presented during the hearing will be of a confidential nature. Patent Owner, therefore, requested that portions of the oral hearing be closed to the public so that confidential information may be discussed. Patent Owner indicated that Petitioner does not oppose Patent Owner's request.

Patent Owner's request is *granted*. But because there is a strong public policy for making all information in an *inter partes* review open to the public—including oral hearings—we provide the following guidelines to the parties for presenting confidential information at the hearing:

- The parties shall reserve all argument disclosing confidential information until the end of the hearing, at which time the Board will close the hearing room to the public.
- The parties' arguments during the closed portion of the hearing shall proceed in the same manner as the open portion of the hearing (i.e., Petitioner's opening, Patent Owner's response, Petitioner's Rebuttal, and Patent Owner's Sur-rebuttal).
- The parties shall make every effort to minimize the amount of time needed to close the hearing room. For example, if arguments can be made by reference to exhibit numbers without disclosing confidential information, the parties should do so.
- The parties shall meet and confer to agree on how much time is needed to discuss any confidential information.
- The parties shall e-mail the Board **by no later than February 20, 2023**, to jointly request the agreed-upon amount of time needed to discuss any confidential information. If the panel finds the amount of time requested is excessive, the panel shall determine a more appropriate amount of time and notify the parties before the hearing.

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- The parties shall determine amongst themselves who is permitted to stay in the hearing room once the hearing room is closed.
- **The parties' demonstratives, if any, shall not contain any confidential information** and should be filed publicly pursuant to 37 C.F.R. 42.70(b).

The parties may request a conference call with the panel to discuss any of these guidelines before the hearing.

FOR PETITIONER:

Linnea Cipriano
Patrick Pollard
Louis Weinstein
WINDELS MARX LANE & MITTENDORF LLP
lcipriano@goodwinlaw.com
ppollard@windelsmarx.com
lweinstein@windelsmarx.com

FOR PATENT OWNER:

Bryan Diner
Justin Hasford
Caitlin O'Connell
Christina Ji-Hye Yang
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
justin.hasford@finnegan.com
caitlin.o'connell@finnegan.com
christina.yang@finnegan.com