

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG BIOEPIS CO., LTD., CELLTRION, INC., and
BIOCON BIOLOGICS INC.,
Petitioners,

v.

REGENERON PHARMACEUTICALS, INC.,
Patent Owner.

IPR2023-00884¹
Patent 11,253,572 B2

Before SUSAN L. C. MITCHELL, ROBERT A. POLLOCK, and
RYAN H. FLAX, *Administrative Patent Judges*.

FLAX, *Administrative Patent Judge*.

ORDER

Entry of Adverse Judgment After Institution of Trial
37 C.F.R. §§ 43.72, 42.73(b)

¹ IPR2024-00260 and IPR2024-00298 are joined with IPR2023-00884. *See* Papers 31 and 33.

I. INTRODUCTION

Regeneron is the owner of U.S. Patent 11,253,572 B2 (Ex. 1001, “the ’572 patent”). Paper 5, 1. On April 27, 2023, Samsung filed a Petition for *inter partes* review challenging the patentability of claims 1–30 (all claims) of the ’572 patent. Paper 2, 1 (“Pet.”). Trial was instituted on November 17, 2023. Paper 13. Subsequently, on December 14, 2023, Celltrion, Inc. in IPR2024-00260, and on December 18, 2023, Biocon Biologics Inc. in IPR2024-00298, each respectively filed a petition for *inter partes* review also challenging the patentability of claims 1–30 of the ’572 patent, and filed motions for joinder with IPR2023-00884. Papers 31 and 33. The trials were instituted and the motions for joinder were granted. *Id.*

We have not yet made a final determination in this proceeding.

II. ANALYSIS

On July 10, 2024, via email to the Board, Patent Owner stated the following:

Counsel for Patent Owner writes to notify the Board that Patent Owner has filed a Disclaimer under 37 CFR 1.321(a), disclaiming claims 1-30 in U.S. Patent No. 11,253,572 that are the subject of IPR2023-00884. The Disclaimer was filed via Patent Center with the U.S. Patent and Trademark Office today and is attached. ***As a result of the disclaimer, no challenged claims remain and Patent Owner therefore requests termination of the proceedings.*** Please advise whether any additional filings should to be made or any further steps taken to request termination of the present proceeding.

Ex. 3004 (emphasis added). A copy of this Disclaimer, dated July 10, 2024, is entered into the record as Exhibit 3005.

Under 37 C.F.R. § 42.72, “[t]he Board may terminate a trial without rendering a final written decision, where appropriate” Further,

37 C.F.R. § 42.73(b)(1) and (2) together state that, “[a] party may request judgment against itself at any time during a proceeding. Actions construed to be a request for adverse judgment include . . . [d]isclaimer of the involved application or patent [and] [c]ancellation or disclaimer of a claim such that the party has no remaining claim in the trial.” Thus, in disclaiming every claim in the ’572 patent, Patent Owner has constructively requested adverse judgment. Ex. 3005.

We *grant* Patent Owner’s request.

Several exhibits filed in this proceeding were done so under seal as they were identified to contain confidential subject matter. Within 60 days, each party shall assemble all copies of all confidential information it has received, including confidential information provided to its representatives and experts, and shall return or destroy the confidential information and provide a certification of destruction to the party who produced the confidential information. *See* Board’s Consolidated Trial Practice Guide, 84 Fed. Reg. 64,280, at 115 (Nov. 19, 2019).

III. ORDER

For the foregoing reasons, it is

ORDERED that Patent Owner’s request for adverse judgment in this proceeding is *granted*;

FURTHER ORDERED that adverse judgment is hereby entered against Patent Owner pursuant to 37 C.F.R. § 42.73(b) with respect to claims 1–30 of U.S. Patent 11,253,572 B2 and the proceeding is thereby terminated;

FURTHER ORDERED that Patent Owner shall file a notice and copy of this judgment in any proceeding or action involving the ’572 patent;

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FURTHER ORDERED that, pursuant to 37 C.F.R. § 42.73(d), Patent Owner is precluded from taking any action inconsistent with this judgment, including obtaining any patent claim that is not patentably distinct from the claims of the '572 patent; and

FURTHER ORDERED that the parties shall return or dispose of received confidential information within 60 days.

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