

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SYNAFFIX B.V.

Petitioner

v.

HANGZHOU DAC BIOTECH CO., LTD.,

Patent Owner

Patent No. 10,131,682

Ex Parte Reexamination Certificate Issued: January 4, 2021

Title: HYDROPHILIC LINKERS AND THEIR USES FOR CONJUGATION OF
DRUGS TO A CELL BINDING MOLECULES

Inter Partes Review No. IPR2022-01531

**PETITIONER'S BRIEF IN RESPONSE TO
PATENT OWNER'S PRELIMINARY SUR-REPLY**

As authorized by the Board's email of July 31, 2023 to the Parties, Petitioner files this Brief in Response to Patent Owner's (PO's) Preliminary Sur-Reply (PSR).

Petitioner submits that the PSR contains a material misrepresentation/misleading argument via implication and omission. In response to PO's proposed claim constructions for Q, Z, Y, and T variables, Petitioner pointed out that it would read compounds 55, 75 99, 119 and 138 out of the claims. Reply, 4-5. PO responded with two arguments. With respect to compounds 55 and 99, it argued that its claim construction should be adopted even though it would read 55 and 99 out of the claims. PSR, 4-6. With respect to compounds 75, 119, and 138, PO argued they were not inconsistent with its proposed construction that Z must be vinyl sulfone rather than just vinyl. *Id.*, 4. PO identified putative Z and Q groups in each of 75, 119, and 138, going so far as to include a graphic highlighting each group in each compound. PO strongly implies that compounds 75, 119 and 138 fall within the claims. This is false.

When Q is sulfone or phosphinate, as it is for each of the above compounds, the relevant claims (e.g., 1) require that neither m nor n can be zero. Thus, both Q and **T must be present**. Yet, under PO's proposed construction, the claims would not read on any of 75, 119 or 138 as they lack T. Implying otherwise, as strongly suggested by PO's two arguments, constitutes a misrepresentation of the facts.

Dated: August 1, 2023 Respectfully submitted: /Joseph P. Meara/

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing
PETITIONER’S BRIEF IN RESPONSE TO PATENT OWNER’S
PRELIMINARY SUR-REPLY is being served on counsel for Patent Owner by
electronic mail this 1st day of August, 2023 as follows:

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