

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CELLTRION, INC.,
Petitioner,

v.

REGENERON PHARMACEUTICALS, INC.,
Patent Owner.

Case No. IPR2023-00462
Patent No. 10,464,992

**PETITIONER'S UNOPPOSED MOTION TO
EXPUNGE PAPER 24 AND EXHIBITS 1049
AND 2054 UNDER 37 C.F.R. § 42.56**

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.56 and pursuant to authorization received by email from the Board on February 13, 2024, Petitioner Celltrion, Inc. hereby moves to permanently expunge Paper 24 (the unredacted version of Patent Owner's Response), and Exhibits 1049 and 2054 (the unredacted version of Dr. Tarantino's deposition) from the record. As explained in Petitioner's Motion to Seal and Reply thereto (Papers 26 and 34), the unredacted Tarantino deposition contains certain information that had no bearing or relevance to the instant '992 IPR and thus can only be misused to buttress litigation positions. Accordingly, Petitioner respectfully requests the Board to grant this Motion to Expunge, mooted Petitioner's Motion to Seal (Paper 26). Counsel for Petitioner has conferred with Counsel for Patent Owner, and Patent Owner does not oppose this Motion.

If the Board is not inclined to grant this Motion, Petitioner respectfully requests a conference call with the Board to discuss the issues raised in this motion.

II. AUTHORIZATION FOR THE MOTION

On January 22, 2024, Patent Owner filed an Unopposed Motion to Terminate Proceeding (Paper 35) in view of the statutory disclaimer it filed January 17, 2024, submitted as Exhibit 2104. As a result of that disclaimer, no

challenged claims remained. On February 5, 2024, the Board indicated by email its intent to enter adverse judgment in IPR2023-00462, because Patent Owner has disclaimed all claims of U.S. Patent No. 10,464,992, and asked the parties to meet and confer to see if the issue of Petitioner’s Motion to Seal could be resolved, or whether the Board would need to rule on it. The parties conferred, and informed the Board on February 12, 2024, that in view of the statutory disclaimer, Petitioner Celltrion would file an unopposed Motion to Expunge, which would obviate the need for the Board to rule on its Motion to Seal. On February 13, 2024, the Board granted authorization for this Motion to Expunge.

III. IDENTIFICATION OF THE PAPER AND EXHIBITS TO BE EXPUNGED

Petitioner identifies Paper 24 (the unredacted version of Patent Owner’s Response), and Exhibits 1049 and 2054 (the unredacted version of Dr. Tarantino’s deposition), the subject of Petitioner’s Motion to Seal (Papers 26 and 34), to be expunged.

IV. REASONS FOR ENTITLEMENT TO RELIEF

The Board’s rules “aim to strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,760 (Aug. 14, 2012); *Garmin Int’l, Inc. v. Cuozzo Speed Technologies, LLC*, IPR2012-00001, Paper 34, p. 2 (March 14, 2013).

In the present case, Paper 24 and Exhibits 1049 and 2054 are not required for “a complete and understandable file history.” Patent Owner filed a statutory disclaimer and a motion to terminate the proceedings before Petitioner submitted its Reply, and before the Board issued a Final Written Decision. Furthermore, the aforementioned Paper and Exhibits were filed after the Board had already issued its Institution Decision. Accordingly, the Board “did not rely on any information in the aforementioned [paper and exhibits] to dispose of any issues in this proceeding.” *Mylan Techs. Inc. v. Noven Pharms. Inc.*, IPR2018-01119, Paper 12, 2 (granting motion to expunge).

As explained in Petitioner’s Motion to Seal, the information sought to be redacted had no relevance to the claims of the ’992 patent, and thus no relevance to this IPR. The public’s interest in a complete and understandable file history with respect to the issues raised in this IPR will be satisfied through a review of the redacted Patent Owner Response and Tarantino deposition, as these exhibits contain only minimal redactions to remove information that could be misused in litigation. All questioning and information related to the subject of this IPR is intact in the redacted papers.

V. CONCLUSION

For the foregoing reasons, Celltrion respectfully requests that the Board grant this unopposed Motion and expunge Paper 24 and Exhibits 1049 and 2054.

Respectfully submitted,

Dated: February 21, 2024

/ Lora M. Green/

Lora M. Green, Lead Counsel

Reg. No. 43,541

CERTIFICATE OF SERVICE

The undersigned certifies that the forgoing Petitioner's Unopposed Motion to Expunge was served on this 21st day of February, 2024, on the Patent Owner at the following electronic correspondence addresses:

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Respectfully submitted,

Dated: February 21, 2024

/ Lora M. Green/
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