

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CELLTRION, INC. and SAMSUNG BIOEPSIS CO., LTD.,¹
Petitioner,

v.

REGENERON PHARMACEUTICALS, INC.,
Patent Owner.

IPR2023-00462
Patent 10,464,992 B2

Before JOHN G. NEW, SUSAN L. C. MITCHELL, and JAMIE T. WISZ,
Administrative Patent Judges.

WISZ, *Administrative Patent Judge.*

DECISION
Granting Petitioner's Motion to Expunge
37 C.F.R. § 42.56

¹ Samsung Bioepsis Co., Ltd. filed a motion for joinder and a petition in IPR2023-01312 and has been joined as a petitioner in this proceeding. *See* Paper 30.

I. INTRODUCTION

On January 17, 2023, Celltrion, Inc. (“Celltrion”) filed a Petition (Paper 2, “Pet.”) requesting an *inter partes* review of claims 1–18 of U.S. Patent No. 10,464,992 (Ex. 1001, “the ’992 patent”). We instituted *inter partes* review under 35 U.S.C. § 314(a). Paper 11 (“Inst. Dec.”).

On November 17, 2023, Petitioner filed a Motion to Seal (Paper 26), Patent Owner filed an Opposition (Paper 32), and Petitioner filed a Reply (Paper 34). Subsequently, Patent Owner notified the Board, by email dated January 17, 2024, that it had filed a statutory disclaimer disclaiming claims 1–18 of the ’992 patent. *See* Ex. 3003. By email dated February 5, 2024, the Board notified the parties that it would be entering adverse judgment in this case due to the disclaimer. *See* Ex. 3004. The Board indicated that it had not yet ruled on Petitioner’s pending Motion to Seal and requested that the parties meet and confer to determine whether this issue could be resolved by the parties or whether they wanted the Board to rule on it. *Id.* In response, Petitioner requested that Paper 24 and Exhibits 1049 and 2054 be expunged and indicated that Patent Owner did not oppose this request. *Id.* Petitioner offered to file a Motion to Expunge, which the Board authorized. *Id.*

On February 21, 2024, we issued an Order of Adverse Judgment after Institution of Trial against Patent Owner with respect to all claims of the ’992 patent due to Patent Owner’s disclaimer. Paper 37. On the same day, with our authorization, Petitioner filed an Unopposed Motion to Expunge Paper 24 and Exhibits 1049 and 2054 under 37 C.F.R. § 42.56. Paper 36 (“Motion”). The Motion indicates that Patent Owner does not oppose.

Motion 1. Petitioner also indicates that the Motion to Expunge moots their Motion to Seal. *Id.*

II. ANALYSIS

A strong public policy exists for making information filed in an *inter partes* review publicly available. 37 C.F.R. § 42.14; *see also* Consolidated Trial Practice Guide² at 19; 84 Fed. Reg. 64,280 (Nov. 21, 2019). The public’s interest in maintaining a complete and understandable file history is balanced with the party’s interest in protecting its truly sensitive, confidential information. Consolidated Trial Practice Guide at 19. “The rule balances the needs of the parties to submit confidential information with the public interest in maintaining a complete and understandable file history for public notice purposes.” *Id.* A party wishing to preserve its confidential information may file a motion to expunge the information from the record. *Id.* at 21–22; 37 C.F.R. § 42.56.

As stated in Petitioner’s Motion, Paper 24 and Exhibits 1049 and 1054 were filed after we entered our Institution Decision and before we issued a Final Written Decision. Therefore, we did not rely on any information in these documents to dispose of any issues in this proceeding. Our review of these papers indicates that they contain nonpublic information. Accordingly, it is appropriate to expunge these documents from the record.

² Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

III. ORDER

Accordingly, it is:

ORDERED that Paper 24 and Exhibits 1049 and 2054 be expunged from the record; and

FURTHER ORDERED Petitioner's Motion to Seal is denied as moot.

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