

Case IPR2023-00503

Patent 10,913,962

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HANGSEN INTERNATIONAL GROUP LTD.,

Petitioner,

v.

ZANOPRIMA LIFESCIENCES, LTD.,

Patent Owner.

Case IPR2023-00503

Patent 10,913,962

PATENT OWNER'S SUR-REPLY TO PETITIONER'S REPLY

Patent Owner Zanoprima Lifesciences Ltd. (“Zanoprima” or “Patent Owner”)

replies to Petitioner’s Reply To Preliminary Response regarding discretionary denial under the *Fintiv* factors. As discussed in the Preliminary Response, a holistic balancing of the *Fintiv* factors weighs in favor of denial.

With respect to factor 1, Petitioner’s argument that the Western District of Texas, Waco Division, grants significantly more motions to stay pending IPR than not is misleading because Petitioner’s analysis includes uncontested or joint motions to stay. Only seven out of twenty five contested motions (28%) have been granted in the Waco Division—three in 2021, three in 2022, and one in 2023. This factor still weighs in favor of denial.

Petitioner also significantly understates the investment that the Court and the parties have already made and will continue to make, particularly in light of the upcoming trial in less than 7 months. Notwithstanding Petitioner’s improper attempt to rewrite factor 3 to require “exceptional” or “atypical” investment, the District Court has already issued a claim construction order memorializing the Court’s final construction rulings and the parties have exchanged final invalidity and infringement contentions and engaged heavily in fact discovery. Petitioner has served deposition notices for the inventors of the ’962 Patent and representatives of Patent Owner, including topics regarding the validity of the ’962 Patent that overlap with issues raised in Petitioner’s petition. Fact discovery is scheduled to close on August 22,

2023, and the current trial date is listed as the week of January 29, 2024. In short, the Court and the parties have engaged in and continue to engage in litigation activities involving issues raised in the Petition.

Regarding factor 6 and as the Preliminary Response explains, the Petition should be denied because Petitioner has not shown that there is a reasonable likelihood that any of the claims of the '962 Patent is unpatentable, much less that Petitioner's challenge rises to the level of a "compelling, meritorious challenge."

For the for foregoing reasons and the reasons provided in the Preliminary Response, Zanoprima respectfully requests that the Board deny institution of IPR.

Dated: July 5, 2023

Respectfully submitted,
/s/ Daniel Prati
Daniel Prati (Reg. No. 65,869)
Lead Counsel for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on July 5, 2023, copies of Patent Owner's Sur-Reply to Petitioner's Reply was served on Lead and Backup Counsel for Petitioner via email (by consent) to:

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