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Subject: RE: IPR2023-00884: Request for Leave to File Motion for Additional Discovery
Date: Tuesday, May 7, 2024 3:47:54 PM

Counsel,

From the Board –

Per Petitioner Samsung Bioepis's request by email on May 3, 2024, we *authorize* the filing of the requested motion for additional discovery. Petitioner may file a 5-page motion by May 14, 2024. Patent Owner may file a 5-page opposition to the motion within 7 days of the filing of Petitioner's motion. The parties should consider and address desired conditions for additional discovery, if granted, and, if relevant, whether some or all of the information listed in Petitioner's email as desired discovery is required, routinely discoverable subject matter under 37 C.F.R. § 42.51(b)(1)(i) and (iii).

Regards,

Esther Goldschlager
Supervisory Paralegal Specialist
Patent Trial & Appeal Board
U.S. Patent & Trademark Office

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Dear Honorable Board,

Petitioner Samsung Bioepis requests leave to file a motion for additional discovery pursuant to 37 C.F.R. § 42.51(b)(2).

In its Response, Patent Owner Regeneron submitted declarations from two fact witnesses: named inventor Dr. George Yancopoulos and Regeneron employee Ms. Karen Chu. Based on publicly available court filings in *Regeneron Pharmaceuticals, Inc. v. Mylan Pharmaceuticals, Inc.*, Case No. 22-cv-61-TSK (N.D. W. Va.) (“Mylan Litigation”), Dr. Yancopoulos and Ms. Chu appeared to have previously provided deposition and trial testimony on subject matter that is substantially similar to their declarations and subsequent depositions in this IPR. Indeed, the Mylan Litigation involved the same ’572 patent challenged in this IPR proceeding. See Paper 55 (Joint Summary of Related Proceedings). Petitioner therefore seeks:

1. The deposition transcript of Karen Chu from the Mylan Litigation and all exhibits thereto;
2. The deposition transcript of George Yancopoulos from the Mylan Litigation and all exhibits thereto;
3. The trial exhibits from the Mylan Litigation cited in the trial testimony of Karen Chu and/or George Yancopoulos;
4. The following trial exhibits from the Mylan Litigation cited in the court’s Memorandum Opinion and Order Following Bench Trial (ECF No. 692 in the Mylan Litigation) related to Regeneron’s clinical development of aflibercept: DTX 0213, DTX 0220, DTX 0222, DTX 0226, DTX 0229, DTX 0230, DTX 0232, DTX 0234.

Petitioner first raised this issue with Patent Owner on April 16, and following several attempts at resolving the issue, Patent Owner only today indicated that it will oppose Petitioner’s request.

If a conference call would be helpful to the Board, counsel for both parties are available on Tuesday May 7 from 11 a.m. to 5 p.m. ET or Thursday May 9 from 11 a.m. to 3 p.m. ET, or at the Board’s convenience.

Respectfully submitted,
Matthew Traupman
Backup Counsel for Petitioner Samsung Bioepis

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