

From: [Kristi Sawert](#)
To: [Trials](#)
Cc: [Zeilberger, Daniel](#); [PH-MSD-JHU-IPR](#); naveenmodi@paulhastings.com; [Wexler, Bruce M.](#); [Ratliff, Preston K.](#); [Stewart, Mark](#); [IPR52261-0005IP1](#)
Subject: RE: IPR2024-00240 - Renewal of request per Board email
Date: Tuesday, April 29, 2025 12:47:07 PM

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Honorable Board,

The transcript in the above-referenced IPR was released yesterday. Therefore, pursuant to the Board's email below, Patent Owner writes to renew its request to file objections. Patent Owner is prepared to file its objections in accordance with the Board's Order (Paper 82, authorizing Patent Owner to file a notice) within one business day of the Board's approval of Patent Owner's renewed request.

Very respectfully,

Kristi Sawert

Kristi L. R. Sawert, Ph.D.

Principal ■ Fish & Richardson P.C.

M: 202.352.8090 | sawert@fr.com

From: Trials <Trials@USPTO.GOV>
Sent: Friday, April 04, 2025 7:23 AM
To: Kristi Sawert <sawert@fr.com>; Trials <Trials@USPTO.GOV>
Cc: Zeilberger, Daniel <danielzeilberger@paulhastings.com>; PH-MSD-JHU-IPR <PH-MSD-JHU-IPR@paulhastings.com>; naveenmodi@paulhastings.com; Wexler, Bruce M. <brucewexler@paulhastings.com>; Ratliff, Preston K. <prestonratliff@paulhastings.com>; Stewart, Mark <mark.stewart@merck.com>; IPR52261-0005IP1 <IPR52261-0005IP1@fr.com>
Subject: RE: IPR2024-00240 - Urgent request for conference call to discuss Board's Order

[This email originated outside of F&R.]

Counsel,

The panel reminds the parties that demonstratives are not a mechanism for making new arguments and that the panel is capable of identifying and obligated under its own regulations to dismiss untimely argument raised for the first time during oral argument. Additionally, demonstratives are not evidence and will not

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be relied upon as evidence. That said, Patent Owner may renew its request to file objections within one business day of receipt of the transcript.

Regards,

Andrew Kellogg,
Deputy Chief Clerk, Trials
Patent Trial and Appeal Board
USPTO
andrew.kellogg@uspto.gov
(571) 272-5366

From: Kristi Sawert <sawert@fr.com>
Sent: Thursday, April 3, 2025 12:41 PM
To: Trials <Trials@USPTO.GOV>
Cc: Zeilberger, Daniel <danielzeilberger@paulhastings.com>; PH-MSD-JHU-IPR <PH-MSD-JHU-IPR@paulhastings.com>; naveenmodi@paulhastings.com; Wexler, Bruce M. <brucewexler@paulhastings.com>; Ratliff, Preston K. <prestonratliff@paulhastings.com>; Stewart, Mark <mark.stewart@merck.com>; IPR52261-0005IP1 <IPR52261-0005IP1@fr.com>
Subject: IPR2024-00240 - Urgent request for conference call to discuss Board's Order

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Your Honors,

Patent Owner urgently requests a conference call to discuss the Board's Order (Paper 82) issued yesterday in IPR2024-00240. The Order authorizes Patent Owner to file a notice that "identif[ies] with particularity which portions of Petitioner's rebuttal are objected to" by April 4, 2025. Patent Owner cannot file a notice because it never saw the demonstratives Petitioner created on-the-fly during the hearing and does not have copies of those demonstratives. As to new arguments, Patent Owner needs a copy of the transcript to particularly point out the new arguments. If the Board does not believe that a conference call is necessary, Patent Owner requests the Board allow Patent Owner to file the notice with its objections within two business days of the release of the transcript.

I received the following response from Petitioner:

Petitioner requests that no further action be taken by the Board. At the hearing, JHU's request for additional briefing was premised on an objection made while Petitioner was citing and showing deposition testimony that JHU itself had elicited from Drs. Neugut and Oberstein when it deposed those experts. To the extent JHU

had other objections that were not then raised, they are waived. JHU’s new request that it receive a copy of the transcript, review it, and propose objections shows that JHU intends to go far beyond the limited objection for which its requested additional briefing during argument. JHU is also incorrect that any “demonstratives” were created or not disclosed, which is why JHU did not object on the procedural ground of an undisclosed demonstrative. Merck only displayed blow ups of the actual deposition transcripts and did so because of JHU’s inaccurate portrayal of selected deposition testimony and given the questions asked by the Board. Merck did not make any new arguments. For these reasons, Merck maintains its opposition to JHU’s request for additional briefing, and, at a minimum, requests that the Board not modify its order.

Respectfully,
Kristi Sawert

Kristi L. R. Sawert, Ph.D.
Principal ■ Fish & Richardson P.C.

T: 202 220 6858 M: 202 352 8090
sawert@fr.com | [Bio](#) | [LinkedIn](#) | [fr.com](#)
1000 Maine Avenue SW, Suite 1000, Washington, DC 20024

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