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UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

DR. FALK PHARMA GMBH,	)
	)
PETITIONER,	)
	)CASE NO.
VS.	)IPR2025-00052
	)
ELLODI PHARMACEUTICALS, L.P.,	)
	)
PATENT OWNER.	)
	)
	)
	)

REPORTER'S REMOTE
TRANSCRIPT OF PROCEEDINGS
NOVEMBER 3, 2025

TECKLA T. CLAY, CSR 13125
OFFICIAL REPORTER PRO TEMPORE

Dr. Falk Pharma v. Ellodi Pharmaceuticals IPR2025-00055 Dr. Falk Pharma Ex. 1114
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APPEARANCES:

FOR PETITIONER:

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PTAB PANEL:

JUDGE RYAN FLAX

JUDGE ZHENYU YANG

1 REMOTE TRANSCRIPT OF PROCEEDINGS

2 NOVEMBER 3, 2025

3 7:02 A.M.

4
5 THE COURT: Okay. Good morning again. This is
6 Judge Flax. I know we have 1, 2, 3, 4, 5, 6 counsel
7 representing the parties on the line right now or maybe
8 5 and a court reporter. Is there a court reporter on
9 the line?

10 COURT REPORTER: Good morning, Teckla Clay, CSR
11 13125.

12 THE COURT: Good morning. How are you?

13 COURT REPORTER: I'm well, thank you.

14 THE COURT: All right. I am hear with Judge
15 Yang representing the panel in the various proceedings
16 and the Board in this conference call.

17 We are here to discuss IPR 2025--00052 and
18 00054 and 00055 and 00056 each captioned Dr. Falk
19 Pharma versus Ellodi Pharmaceuticals the respective
20 petitioner and patent owner in each proceeding.

21 If any of that is incorrect would someone
22 please speak up? And if that is correct would counsel
23 for the parties please introduce themselves beginning
24 with the petitioner.

25 MR. LUMAN: Thank you, your Honor. This is Nate

1 Luman. I'm counsel for petitioner. I'm from the law
2 firm of Knobbe Martens. I'm joined by my partners Eric
3 Furman and Jared Bunker.

4 MS. AGARWAL: Good morning your Honor, this is
5 Isha Agarwal representing patent owner Ellodi
6 Pharmaceuticals. I am from Cooley LLP. I'm joined on
7 the line with Jonathan Cousin also from Cooley.

8 THE COURT: Okay. Good morning to you all.
9 Thank you for introducing yourselves. So the
10 conference call today spanning these four cases we have
11 common issues in three and unique issue in one.

12 And we had an e-mail from petitioner
13 identifying what y'all wanted to discuss today. I'll
14 let you introduce the issues. But it's our
15 understanding that petitioner is seeking authorization
16 for an additional 1,000 words in each of it's replies
17 in the 52, 54 and 55 matters and I'm using those sort
18 of summarily as the last two digits of each IPR.

19 They want to discuss related cases and how
20 they're impacting or constraining the patent owner in
21 this case or in these cases. Also petitioner wants to
22 file a claim chart appendix with it's replies.

23 And petitioner doesn't oppose 1,000 word
24 extension on the respective patent owner surreplies in
25 these cases. So let's start with those. We can get to

1 the 5, 6 IPR at the end.

2 So petitioner since you want authorization
3 for these things could you review what you want and
4 why?

5 MR. LUMAN: Yes. Thank you, your Honor. And
6 thanks for making time to hold this meeting today. So
7 as we're all aware there are five IPRs between the
8 parties and there is also one PTR.

9 In the first IPR Patent owner disclaimed
10 all of it's claimed and adverse judgment was entered
11 last week. The first part of our request is based on
12 that adverse judgment.

13 There is an enormous amount of overlap
14 between the disclaimed patent claims and the remaining
15 claims in the three IPRs in which we're asking for
16 1,000 additional words for that's in the 52, 54 and 55
17 cases.

18 During prosecution each of those three
19 patents in the 52, 54 and 55 cases they were rejected
20 for double patenting, what was now a disclaimed patent
21 from the first IPR. And in fact the independent claim
22 from the 55 case it changed one word from the now
23 disclaimed claim.

24 They changed disintegrant to excipient and
25 that makes the 55 case claim even broader and even more

1 obvious than the now disclaimed claims from the first
2 IPR.

3 The claims from the 52 case are also
4 broader and more obvious than the now disclaimed claims
5 from the first IPR. Patent owner filed terminal
6 disclaimers for the patents in the 52, 54 and 55 cases
7 that disclaimed any term beyond the now disclaimed
8 patent.

9 Those three patents are not patently
10 distinct from the disclaimed patent in the first IPR.
11 And so we ask patent owner, we asked them if they
12 intend to file disclaimers in any of the remaining IPRs
13 and they refused to tell us.

14 There isn't anything in patent owner's
15 responses in the 52, 54 or 55 IPRs that indicate those
16 proceedings should come out in a different way than the
17 first IPR which is for all of the challenged claims to
18 be cancelled.

19 And we're concerned because petitioner
20 spent significant time and effort building the case in
21 the first IPR. And we're concerned that our efforts in
22 the first IPR will get lost as we move between the
23 different proceedings.

24 There has to be a practical effect of the
25 adverse judgment in the first IPR on invalidity in the

1 remaining IPRs. And we believe that the Board should
2 use the patent owner estoppel provisions from Rule
3 42.73D3 to enforce the adverse judgment in the first
4 IPR in the remaining pending 52, 54 and 55 IPRs by
5 precluding the patent owner from taking action
6 inconsistent with the adverse judgment in the first
7 IPR.

8 And that comes from the federal circuit
9 Sacute case as well as the plain reading of the rules.
10 So we'd like the opportunity to present our position on
11 that in writing. And that's the first part of why we
12 are asking for 1,000 additional words in our reply
13 brief.

14 THE COURT: Okay. There was another thing, are
15 you about to get to this the Virginia and Germany
16 cases?

17 MR. LUMAN: Yes, thank you, your Honor.

18 THE COURT: Okay.

19 MR. LUMAN: The second part of our request is to
20 use a portion of the additional words to provide you
21 with details regarding the rulings in the Virginia and
22 German cases.

23 Those litigations there included on the
24 list of related matters which the parties haven't
25 provided details on the rulings in those litigations,

1 the Virginia and German courts have both ruled
2 unanimously in favor of petitioner and against the
3 patent owner.

4 And so, so we believe that providing your
5 Honors with the context of those litigations would help
6 the Board understand the scope of the litigations
7 between the parties and in particular how our client
8 has had to spend significant time and effort and
9 resources policing the patent owner's patents here at
10 the US patent office, at the European patent office to
11 defend against allegations of breach of contract in the
12 Eastern District of Virginia regarding the IPRs and in
13 the German courts.

14 THE COURT: Let me ask you this regarding these
15 related cases, there is a standing order from the
16 deputy director, I think, I guess our acting director,
17 Acting Chief Deshpande you all are supposed to update
18 us regarding related matters and decisions in related
19 matters as a matter of routine course.

20 Why do you need extra words in your reply
21 if you're supposed to automatically do that anyway? So
22 it seems like it would be a separate filing on the
23 those related litigations.

24 MR. LUMAN: Your Honor, we'd be happy to do it
25 in a separate filing if you believe that's appropriate.

1 The German case and Virginia case they involved an
2 allegation of breach of contract based on filing the
3 IPRs.

4 And so the rulings in those cases don't
5 directly weigh on obviousness. They weigh on whether
6 or not the petitioner was permitted to file IPRs in the
7 cases. So if you'd like to have that briefing done
8 separately we can do that or we can do it in the reply
9 brief.

10 But we do think that it would be good to
11 get the ruling on those in front of the Board so the
12 Board can have a wholistic like understanding of the
13 litigations between the parties.

14 And then the last part of our request is
15 for permission to include an appendix claim chart that
16 lists and aligns the claim limitations from the patents
17 in the four proceedings. How we did it in basically
18 Appendix A of Exhibit 1050.

19 So we're not asking to include any
20 argument in the appendix. It would just be a listing
21 of claim limitations side by side. And we think our
22 proposed claim chart would be helpful to allow the
23 Board to see the similarities between the claims.

24 Those types of claim chart listings they
25 reproduce the claim language and they use a lot of the

1 words. And so we're asking that the Board would permit
2 the use of a claim chart listing as an appendix here
3 that wouldn't count towards the word count.

4 The reason that we're asking for the extra
5 words here is that in the first IPR we bumped right up
6 on the word count limit for our reply. And in these
7 pending proceedings the patent owner has repeated their
8 same arguments again in the pending IPRs and they've
9 also added some new arguments on secondary
10 consideration.

11 And we don't believe those arguments have
12 merit but we still need to use words to respond to
13 those arguments. That's why we're seeking an increase
14 of 1,000 words, that's about 5 to 6 pages, and the
15 claim appendix listing the claims side by side from the
16 various cases so that we can get these additional
17 issues briefed.

18 And as you've seen from petitioner's IPR
19 briefing our style, our briefing style is compact.
20 It's to the point the words wouldn't be wasted. And we
21 believe good cause exists for a modest increase in the
22 word count.

23 And we also think that it would be good
24 for the Board to have the perspective of both parties
25 on the issues. And that's why we wouldn't oppose

1 patent owner having an equal word count extension in
2 it's surreply. Thank you.

3 THE COURT: Okay. I presume that at least a
4 little bit of what those thousand words would explain
5 what you're trying to show in the new appendix if it
6 was authorized.

7 MR. LUMAN: That's right. We would like to
8 refer to the appendix and so that the Board can see the
9 overlap between the claims.

10 THE COURT: Okay. Thank you. Ms. Agarwal, do
11 you have any response?

12 MS. AGARWAL: Yes, your Honor. Thank you. This
13 is Isha Agarwal. So we believe that petitioner should
14 be able to make it's arguments within the word limits
15 prescribed particularly here where petitioner's
16 positions are irrelevant to limiting issues and are
17 legally precluded.

18 And patent owner should not have to expend
19 it's own time and resources and significant cost to
20 respond to these arguments that have no relevance to
21 the proceedings and no legal basis.

22 THE COURT: May I ask you a question, Ms.
23 Agarwal?

24 MS. AGARWAL: Yes.

25 THE COURT: So your opposing counsel mentioned

1 terminal disclaimers in these related patents slash, I
2 guess, applications at the time that were terminally
3 disclaiming relative to the patent that you have
4 already disclaimed the claims from. Is that an
5 accurate summary?

6 MS. AGARWAL: Yes, during prosecution of the
7 patents at issue in these 52, 54 and 55 IPRs there were
8 terminable disclaimers filed to the 729 patent that we
9 have disclaimed, correct.

10 THE COURT: And that 729 was in the 1197 case;
11 is that right?

12 MS. AGARWAL: Yes.

13 THE COURT: Okay. So one, something that I
14 would be interested in and I think the rest of the
15 panel would be interested in is how do these terminal
16 disclaimers apply to these remaining IPRs? I think
17 that would be worth --

18 MS. AGARWAL: Yeah.

19 THE COURT: -- while thing to hear about or read
20 about in their reply. So why do you think it wouldn't
21 be worthwhile to have a bit more briefing on that?

22 MS. AGARWAL: So the case law is pretty settled
23 first in regards to the estoppel provision of 42.73.
24 The case that petitioner cited to in it's request for
25 authorization draws a distinction between obtaining new

1 claims and maintaining previously issued claims and in
2 that case the federal circuit found that the patent
3 owner is allowed to defend to be able to maintain
4 already issued claims. And that defense is not an
5 action that is inconsistent with adverse judgment.

6 And specifically to your question about
7 the terminal disclaimer there is also well settled case
8 law that terminal disclaimers are not admissions, that
9 claims are not patently distinct. That's in the Quad
10 Environmental Tech case as well as Motionless Keyboard.

11 So in our view this is pretty well settled
12 case law that patent owner should be able to continue
13 to defend these claims in these IPRs even though
14 defendants deny patent has been disclaimed and terminal
15 disclaimers were filed.

16 And for that reason we don't believe that
17 petitioner's position have merit or that they need the
18 additional 1,000 words to discuss these issues.

19 THE COURT: Okay. If we were to authorize
20 additional words in these replies does patent owner
21 want additional words in their surreplies?

22 MS. AGARWAL: Yes, absolutely. If the Board
23 were to authorize 1,000 words for petitioner's reply we
24 would also ask for the thousand words, additional 1,000
25 words to respond in our surreply.

1 THE COURT: Okay. All right. I feel like we've
2 got sufficient information on these first issues,
3 unless there's anything else petitioner's counsel wants
4 to note before we move on?

5 MR. LUMAN: Just very briefly, your Honor. I do
6 think that the parties clearly disagree on the scope of
7 patent owner estoppel and the effect of the terminable
8 disclaimers.

9 THE COURT: I'm sure that's true. That would be
10 something y'all would address; right?

11 MR. LUMAN: Correct, that was my point. We
12 would address it in the extra thousand words.

13 THE COURT: All right. And anything else from
14 you Ms. Agarwal?

15 MS. AGARWAL: Just on the EDBA and German
16 proceedings as well as the appendix chart as petitioner
17 admitted during his argument the proceedings in the
18 EDBA, excuse me, and Germany, sorry excuse me, do still
19 have to do, do not relate to the validity and the
20 obviously challenges that petitioner has brought, but
21 they rather have to do with contractual disputes
22 regarding a settlement agreement between the parties.

23 And so for that reason we don't believe
24 that there's a reason for the Board to necessarily dig
25 into these issues in our reply or in the surreply. If

1 the Board would like we agreed we can put it in as a
2 separate paper just to update the Board on related
3 matters.

4 But as petitioner pointed out it has
5 nothing to do with the, obviously, challenges made here
6 or validity of the patents. And then on the appendix
7 chart the chart is already in evidence. It's appended
8 to each of the declarations and each of the IPR
9 proceedings, each of the expert declarations.

10 So petitioner can still reference it.
11 They can reference it to reference to the expert
12 declaration and that appendix. So we don't see a need
13 for it to be appended to the reply and for petitioner
14 to potentially to, not potentially but to actually
15 circumvent the word limit here by appending the
16 appendix chart to the reply. We don't see a need for
17 that.

18 THE COURT: Is that so, Mr. Luman? Is it
19 already in evidence, this very same claim chart that
20 you want to submit?

21 MR. LUMAN: The claim chart is part of our
22 expert declaration. And our concern is if we
23 referenced that chart in our reply then patent owner
24 may accuse us of improper incorporation by reference.
25 And so that's why we're seeking express authorization

1 to use the, to append it to our reply brief and have it
2 not count towards those word count limit.

3 THE COURT: Right. It sounds like she's saying
4 that they would prefer you to do it that way. So I
5 don't think, I mean I don't think she's going to, I
6 don't think patent owner will be objecting to you
7 citing evidence that's already in the record in that
8 way.

9 So I don't know if you really need that
10 appendix part. It sounds like you all are kind of
11 agreeing that it's already there.

12 MR. LUMAN: That's correct, it's there. And if
13 we have permission to reference it in our reply then
14 that's what we're seeking to make sure that we don't
15 get accused of improper incorporation by reference.

16 THE COURT: Ms. Agarwal, can you certify that
17 you won't object to it for that reason?

18 MS. AGARWAL: Yes we won't object to petitioner
19 referring to it.

20 THE COURT: Okay.

21 MS. AGARWAL: Yes.

22 THE COURT: All right. So let's move onto the
23 second issue here which is IPR 2025--00056 where the
24 due date for the filing of a patent owner response has
25 come and gone, that was September 9th.

1 So I understand that per the scheduling
2 order you want to talk about that in this conference
3 call. So petitioner what do you have to say about
4 that?

5 MR. LUMAN: So you're correct, your Honor, that
6 petitioner didn't file a patent owner response and they
7 clearly waive patent owner response. And so I think we
8 need to hear from patent owner what their intentions
9 are if they're going to further participate in the IPR,
10 if they're going to file a request for adverse
11 judgment. We just need to know what their intentions
12 are.

13 And if they are not going to file a
14 request for adverse judgment then the petitioner would
15 request permission to file a short 10 page reply to the
16 institution decision so that we can just make it clear
17 on the record that petitioner agrees with the Board's
18 analysis and the decision.

19 THE COURT: Okay. Ms. Agarwal?

20 MS. AGARWAL: So to petitioner's first point we
21 do not intend to file for adverse judgment at this
22 time. And correct we did not file a patent owner
23 response. But based on the Apple versus Zipit Wireless
24 precedential decision we would still like the Board to
25 determine the merits of petitioner's challenge as well

1 as the preliminary response that patent owner did file
2 in the 56 proceeding.

3 THE COURT: I'm sorry say that last part again.
4 What was that last part that you just said?

5 MS. AGARWAL: That we would yes --

6 THE COURT: What did you --

7 MS. AGARWAL: We would like the Board to
8 determine the merits of petitioner's challenge based on
9 the papers that are already in the record including
10 patent owner's preliminary response.

11 THE COURT: Well I think you do know that we
12 won't do that; right? We will not consider your
13 preliminary response as continuing arguments. It says
14 it right in the scheduling order that arguments not
15 made in a response are waived. So that won't be
16 happening.

17 MS. AGARWAL: Okay. Thank you, your Honor. But
18 still according to the Apple versus Zipit Wireless case
19 the Board still has to determine the merits of
20 petitioner's challenge. And, and so we're asking the
21 Board to move forward in that regard.

22 THE COURT: So you want a final decision?

23 MS. AGARWAL: Yes, correct.

24 THE COURT: Okay. And what is your position on
25 what Mr. Luman just asked for for petitioner? He wants

1 10 pages to respond to what the panel had to say in the
2 institution decision. What do you say about that?

3 MS. AGARWAL: We don't believe that's necessary
4 paper for petitioner to file. I mean the institution
5 decision lays out the Board's positions on institution.
6 And we're simply asking for if petitioner does file
7 such a paper we ask for an equivalent 10 pages to
8 respond if the Board would allow that. This is the
9 first that we're hearing about petitioner's request.

10 THE COURT: Yeah it's a unique request. I've
11 never heard that before. So it's an interesting
12 request from a party that has no opposition to their
13 petition. Okay. So is there anything else on this IPR
14 20250006 that we haven't covered? Mr. Luman, anything
15 else?

16 MR. LUMAN: No, your Honor. Thank you.

17 THE COURT: Ms. Agarwal, anything else on that
18 one?

19 MS. AGARWAL: I would just like to also say that
20 we're still evaluating the, this 56 IPR. And we will
21 keep the Board apprised of any changes in our thought
22 process there.

23 THE COURT: Okay. All right. So if you all
24 could please just wait for a few minutes I'm going to
25 confer with Judge Yang and we'll get back to you in

1 just a few minutes with our thoughts. Please hold on.

2

3 (A discussion is held off the record)

4 THE COURT: Okay. We are back. Hello everyone.

5 Let me know if you can hear me?

6 MR. LUMAN: Yes.

7 MS. AGARWAL: Yes.

8 COURT REPORTER: Yes.

9 THE COURT: So on the first issue regarding IPR
10 202500052 and 54 and 55 we will be granting 1,000
11 additional words to each party in their respective
12 reply and their surreply. Petitioners laid out several
13 issues that they want to address.

14 We're not going to restrict them on what
15 they want to address in those extra thousand words be
16 that, you know, the relationship between all these
17 various patents, terminal disclaimers. If you want to
18 touch on these related litigations, that's fine.

19 Although honestly I have a hard time
20 finding much interest in those. But if they are
21 important, please let us know why. And of course
22 patent owner will get an equivalent surreply. And they
23 can address the issues that are raised in the reply.

24 I think as we've all agreed there's no
25 need for adding that claim chart appendix to the reply.

1 Please just cite to it and reference it, that it's
2 already in the record so identify it that way.

3 I think that that's all the issues related
4 to those IPRs. And for IPR 2025-00056, really nothing
5 need be done right now. We are not going to authorize
6 any reply for petitioner to the institution's decision.
7 So there will be no more briefing in that case unless
8 something unusual and unexpected happens.

9 And we will wait to see and if patent
10 owner has anything that they want to update us on as we
11 move ahead towards a final decision in that matter as
12 the burden is petitioner's in the case, different
13 threshold and different standards of review and
14 different burden between the institution stage and the
15 final decision so, you know, petitioner will be held to
16 the burden that's required of a final decision there.

17 Having said all this, I'm giving you
18 authorization, we'll follow up with an order in the
19 IPRs 52, 54 and 55 just summarizing what we've
20 discussed here and officially granting the additional
21 thousand pages to each of the parties filings in those
22 cases.

23 But that will be forthcoming so you can
24 proceed expecting that you will be granted those extra
25 thousand words. Let's see, is there anything I'm

1 overlooking? Do you all feel satisfied with what we've
2 discussed at this point?

3 MR. LUMAN: Yes, your Honor. Thank you. Would
4 you like the transcript to be submitted as an exhibit
5 in the IPR?

6 THE COURT: Please do, yes, please do that.

7 MR. LUMAN: We'll take care of that, your Honor.

8 THE COURT: Ms. Agarwal, are you satisfied? Do
9 you understand where we're going with this?

10 MS. AGARWAL: Yes, your Honor. Thank you.

11 THE COURT: Okay. All right so in the next
12 couple days expect our proceeding order summarizing
13 what we just talked about and the authorization and
14 just please proceed to meet the due dates. We will
15 review the briefing when it comes in.

16 MR. LUMAN: Thank you, your Honor.

17 MS. AGARWAL: Thank you, your Honor.

18 THE COURT: Anything else that we should address
19 now that we're all here or are we good?

20 MS. AGARWAL: Nothing further from patent owner.

21 MR. LUMAN: Nothing.

22 THE COURT: Okay everyone have a great day.
23 We'll adjourn.

24

25 (The proceeding concluded at 7:34 a.m.)

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2 UNITED STATES PATENT AND TRADEMARK OFFICE
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD
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6 DR. FALK PHARMA GMBH,)
7)
8 PETITIONER,)
9) CASE NO.
10 VS.) IPR2025-00052
11)
12 ELLODI PHARMACEUTICALS, L.P.,)
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14 PATENT OWNER.)
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12 I, TECKLA CLAY, CSR NO. 13125, OFFICIAL
13 REPORTER OF THE SUPERIOR COURT OF THE STATE OF
14 CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY
15 CERTIFY THAT THE FOREGOING PAGES, 1 THROUGH 15
16 COMPRISE A FULL, TRUE AND CORRECT REMOTE TRANSCRIPT OF
17 THE PROCEEDINGS TAKEN IN THE ABOVE ENTITLED
18 CAUSE ON NOVEMBER 3, 2025 THIS 18TH DAY OF NOVEMBER
19 2025.

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TECKLA CLAY, CSR NO. 13125

[00052 - appending]

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