

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CHARLES RIVER LABORATORIES, INC.,
Petitioner,

v.

SEIKAGAKU CORPORATION,
Patent Owner.

IPR2025-00440 (Patent 11,236,318)
PGR2025-00023 (Patent 11,959,109)¹

Before MICHAEL J. FITZPATRICK, JAMES A. WORTH,
TAWEN CHANG, *Administrative Patent Judges*.

FITZPATRICK, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

¹ This Order is being entered in both proceedings. The parties may not file papers captioned for multiple proceedings unless specifically authorized, as we do below. *See infra* n.2.

A conference call was held with the Board on August 1, 2025. The conference call was requested by Patent Owner. Scott McKeown and Flora Luo spoke for Petitioner, and Alexander Stein spoke for Patent Owner. Petitioner arranged for a court reporter to transcribe the call. We instructed Petitioner to file the anticipated transcript as an exhibit in each proceeding.

The purpose of the call was to discuss Patent Owner's request to file a motion to compel from Petitioner routine discovery, specifically "relevant information that is inconsistent with a position advanced by [Petitioner]." 37 C.F.R. § 42.51(b)(1)(iii). Patent Owner represented that its motion would seek "confirmation that [Petitioner] initiated the EPO Opposition proceedings and service of all information revealing its inconsistent positions." Ex. 3002; *see also* Ex. 2006 (Notice of Opposition of EP 3530670 ("the '670 Opposition")). As alleged by Patent Owner, the anonymous Opponent that requested the '670 Opposition filed a declaration by a Michael A. Frohman ("the Frohman Declaration"), which contains testimony that is inconsistent with positions advanced by Petitioner in these proceedings. Patent Owner further alleged there is evidence suggesting that Petitioner is the Opponent. *See, e.g.*, PGR2025-00023, Paper 7, 28–36 (providing argument and evidence suggesting that Patent Owner is the Opponent). If so, the argument goes, Petitioner would have to produce all inconsistent information it might possess (i.e., beyond the allegedly inconsistent Frohman Declaration).

Petitioner declined to state whether it is the Opponent, asserting that whether or not it filed the '670 Opposition would be privileged. Petitioner further stated that the Frohman Declaration is not inconsistent with any positions taken by Petitioner in either of the instant proceedings.

We authorized briefing.

ORDER

Accordingly, it is

ORDERED that Petitioner shall file as an exhibit in each proceeding the transcript of the August 1, 2025, conference call promptly upon receiving it;

FURTHER ORDERED that Patent Owner may file in each proceeding, no later than August 8, 2025, a motion to compel routine discovery under 37 C.F.R. § 42.51(b)(1)(iii);

FURTHER ORDERED that Petitioner may file in each proceeding an opposition to the motion no later than August 15, 2025; and

FURTHER ORDERED that the motion and opposition are each limited to seven (7) pages, and no reply brief is authorized.²

² If Patent Owner desires, it may file an identical motion in both proceedings with a caption that identifies both proceedings. If Petitioner desires, it may file an identical opposition in both proceedings with a caption that identifies both proceedings.

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