
From: McKeown, Scott A.
Sent: Wednesday, June 25, 2025 4:18 PM
To: Stein, Alexander B.; PTAB Scott McKeown; FLuo-PTAB; PTAB Chelsea Loughran
Cc: Seikagaku-CR-IPR-PGR
Subject: RE: PGR2025-00023 and IPR2025-00440: Request for Position on Motions to Compel Routine Discovery

Alex,

I confirm that Petitioner has complied with all routine discovery obligations.

While I don't believe there is anything else to discuss, I am available to meet and confer as necessary when I return to the U.S.

Tuesday July 1st 1-3PM (EST)
Wednesday July 2nd 1-3PM (EST)

Scott

From: Stein, Alexander B. <alexander.stein@morganlewis.com>
Sent: Tuesday, June 24, 2025 1:09 AM
To: PTAB Scott McKeown <SMcKeown-PTAB@WolfGreenfield.com>; FLuo-PTAB <FLuo-PTAB@WolfGreenfield.com>; PTAB Chelsea Loughran <CLoughran-PTAB@WolfGreenfield.com>
Cc: Seikagaku-CR-IPR-PGR <Seikagaku-CR-IPR-PGR@morganlewis.com>
Subject: PGR2025-00023 and IPR2025-00440: Request for Position on Motions to Compel Routine Discovery

Counsel,

Routine-discovery provisions at the PTAB (e.g., 37 C.F.R. § 42.51(b)(1)(iii)) require that "a party must serve relevant information that is inconsistent with a position advanced by the party during the proceeding concurrent with the filing of the documents or things that contains the inconsistency." It does not appear that you have complied with these routine-discovery provisions.

As you discussed in your recent briefs related to discretionary denial in these proceedings, Oppositions have been filed against European patents owned by Patent Owner (Seikagaku Corporation) that relate to recombinant *Limulus polyphemus* factors including, for example, EP 3530670B1 and EP3441466B1. As you are aware, during the 3530670B1 Opposition, the Opponent submitted a declaration from Michael A. Frohman, M.D., Ph.D.—an expert in "biochemistry, immunology, developmental and molecular biology, with 38 years of experience in molecular cloning." Ex. 2004 ¶ 2. This declaration related to the determination of the full-length *Limulus polyphemus* Factor C sequence.

For the reasons explained in our discretionary-denial briefs in these proceedings, there is strong evidence that CRL is behind the EP 3530670B1 Opposition and thus sanctioned Dr. Frohman's expert declaration. For example, several unique copies of documents submitted during the Opposition were cited on IDSs in certain of CRL's U.S. patent applications. However, in your recent briefs related to discretionary denial, you included musings that "[a]ny member of the public... could have accessed those references" but failed to answer whether CRL was in fact behind the Oppositions for EP3530670 and EP3441466.

We ask that you immediately comply with the PTAB's routine-discovery provisions and, if true, not only confirm that CRL was behind the aforementioned European Oppositions, but also serve on us all "relevant information that is inconsistent with" the positions you have advanced in the IPR and PGR proceedings. See *also* 37 C.F.R. §§ 11.301 and 11.303.

In view of the above, if you do not intend to comply with your routine-discovery obligations, then we intend to request authorization from the Board to move to compel routine discovery in each of these proceedings. We are available to meet and confer regarding this request. If you oppose this request, please let us know your availability for a call with the Board to discuss. If we have not heard from you by 6/25 (Wednesday), we will reach out to the Board to request a conference call to discuss this issue and will indicate that we reached out to request your position but did not receive a response.

Best,

-Alex

Alexander B. Stein

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