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Paper 40
Date: April 30, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CHARLES RIVER LABORATORIES, INC.,
Petitioner,

v.

SEIKAGAKU CORPORATION,
Patent Owner.

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

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Before SUSAN L. MITCHELL, MICHAEL J. FITZPATRICK, and TAWEN CHANG, *Administrative Patent Judges*.

FITZPATRICK, *Administrative Patent Judge*.

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

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[1] This Order is being entered in both proceedings. The parties may not file papers captioned for multiple proceedings unless specifically authorized.

A conference call was held with the Board on April 29, 2026. The conference call was requested by Petitioner. Scott McKeown spoke for Petitioner, and Alexander Stein spoke for Patent Owner. Petitioner arranged for a court reporter to transcribe the call and agreed to enter the transcript as an exhibit in each proceeding reasonably promptly after receiving it.

In an April 23, 2026, email, counsel for Petitioner requested the call for the purpose of seeking authorization to file a motion for sanctions regarding certain arguments presented by Patent Owner in these proceedings. Ex. 3005.[2] The body of the email stated:

> Petitioner served Patent Owner with a Motion for Sanctions on March 31st, satisfying the 21-day safe harbor of 42.11(d)(2). Patent Owner responded on April 20th that it will not withdraw or appropriately correct its briefing. Patent Owner's contradictory and bad faith arguments on its missing specification disclosure being simultaneously well-known to a POSA in 2013 (in filings before the PTAB), yet unknown in 2016 (by PO's own admission in its PCT filing and defense of the same before the EPO), is a violation of Patent Owner's Duty of Candor & Good Faith and defies controlling Director precedent on inconsistent argument across forums. Petitioner seeks authorization to file its Motion to seek appropriate sanction and will do so immediately upon receiving authorization.
>
> Patent Owner strongly opposes Petitioner's Motion for Sanctions, which is based on an unfounded claim that Patent Owner has taken inconsistent positions in these proceedings compared to its stance in an Opposition before the EPO. Petitioner fails to identify any such inconsistency, let alone justify sanctions. In fact, as detailed in Patent Owner's Preliminary Response, Patent Owner Response, and Sur-Reply, it is Petitioner who has taken inconsistent positions in these

[2] Exhibit 3004 in PGR2025-00023 is currently unused.

> proceedings and the EPO. This makes Petitioner's sanctions motion particularly egregious. Petitioner deliberately concealed its role in the European Opposition, compelling Patent Owner to file two discovery motions to uncover a fact that Petitioner should have disclosed from the beginning. Should the Board permit Petitioner to proceed with its Motion, Patent Owner will not only oppose it but will also actively seek appropriate relief, including all available fees and costs, due to Petitioner's conduct and its insistence on pursuing a baseless sanctions campaign.

Ex. 3005.

During the call, we determined that the arguments Petitioner would present in support of sanctions would be essentially the same as arguments it has already presented in support of its unpatentability grounds. Accordingly, we decided that briefing a motion for sanctions would not be helpful prior to our rendering of a final written decision, and we denied Petitioner authorization to file its motion at this time.

ORDER

Accordingly, it is

ORDERED that Petitioner's request for authorization to file a motion for sanctions is denied without prejudice;

FURTHER ORDERED that Petitioner may not renew its request to file such a motion in either proceeding until a final written decision has been entered in the corresponding proceeding.

FOR PETITIONER:

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