

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARAGEN BIOSCIENCE, INC.
AND
TRANSPOSAGEN BIOPHARMACEUTICALS, INC.,
Petitioner,

v.

KYOWA HAKKO KIRIN CO., LTD,
Patent Owner.

Case IPR2017-01252
Patent 6,946,292

Case IPR2017-01254
Patent 8,067,232 B2

Case IPR2017-01262
Patent 7,425,446 B2

Before JAMES T. MOORE, ERICA A. FRANKLIN,
and ROBERT A. POLLOCK, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

ORDER – CONDUCT OF THE PROCEEDING
37 C.F.R. § 42.5

IPR2017-01252; IPR2017-01254; and IPR2017-01262
Patents 6,946,292; 8,067,232 B2; and 7,425,446 B2.

I. Background

On April 6, 2017, Petitioner filed two petitions requesting *inter partes* review of two of Patent Owner's patents, US 6,946,292 and US 8,067,232, and on April 11, 2016, filed a third petition seeking review of US 7,425,446.

On July 26, 2017, Patent Owner filed a preliminary response in IPR 2017-01262 (Paper 8), and on August 1, 2017, Patent Owner filed a preliminary response in IPR2017-01254 (Paper 9). Patent Owner has not yet filed a preliminary response in IPR2017-01252 and is not obligated to.

On August 4, 2017, Petitioner's counsel requested a conference call with the Board to discuss a request for the Petitioner to file a reply to the Patent Owner's preliminary statements in all three reviews (assuming one is filed in IPR2017-01252).

II. The conference call

A conference call was scheduled for 2PM Eastern Time on August 8, 2017. Present for the Board were Judges Moore, Franklin, and Pollock. Present for Petitioner was Mr. Vogel and Mr. Manske. Present for Patent Owner were Mr. Platt and Mr. Insogna.

Petitioner raised the issue of Dr. Van Ness's testimony, in this series of reviews, and in a related litigation. Dr. Van Ness has testified in each of the proceedings, his testimony similarly designated in each as Exhibit 1007.

According to Petitioner, Patent Owner has utilized the cross-examination testimony of Dr. Van Ness in the related proceeding in a manner Petitioner deems improper. As such, Petitioner seeks permission to reply to point out the impropriety with specificity.

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III. Discussion

A reply may be filed if good cause exists for the reply. 37 CFR §42.108. That a witness has testified elsewhere and that testimony may be used against the witness does not seem out of the ordinary to us under the instant facts. Consequently, we do not find that good cause exists at this time to permit a reply.

In this case, we determine that an appropriate context for understanding the cross-examination testimony cited in the preliminary response would be beneficial to the decision-making process, without any additional argument raised. Consequently, we enter the following Order.

IV. Order

Petitioner shall file the complete deposition transcript(s) of Dr. Van Ness as an exhibit in the record of each proceeding as soon as practicable. Petitioner may, no later than August 20, 2017, submit a paper in each proceeding, identifying by page and line number, portions of the transcript it feels will aid the Board in understanding the context of the testimony cited by the Patent Owner. The Paper shall not exceed five pages and shall not contain any argument or discussion.

IPR2017-01252; IPR2017-01254; and IPR2017-01262
Patents 6,946,292; 8,067,232 B2; and 7,425,446 B2.

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