

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AUROBINDO PHARMA USA, INC.
Petitioner,

v.

ANRX CORPORATION,
ANRX LABORATORIES, INC.
ANRX LABORATORIES (NJ), INC.
ANRX EU LTD.
ANRX PHARMACEUTICALS, LLC,
TEVA PHARMACEUTICAL INDUSTRIES LTD.
Patent Owner(s).

Case IPR2017-01648
Patent 6,866,866 B1

Before SUSAN L.C. MITCHELL, TINA E. HULSE, and
DEVON ZASTROW NEWMAN, *Administrative Patent Judges*.

NEWMAN, *Administrative Patent Judge*.

ORDER

Granting Joint Motion to Limit the Petition
37 C.F.R. §§ 42.1(b), 42.71

The Petition challenges claims 1–25 (all claims) of U.S. Patent No. 6,866,866 on three grounds: (1) anticipation under 35 U.S.C. § 102 over WO 00/12097 (“Chen”); (2) anticipation under 35 U.S.C. § 102 over WO 99/47128 (“Timmins”); and (3) obviousness under 35 U.S.C. § 103 over WO 99/47125 (“Cheng”) and Timmins. Paper 1, 10–11. In our institution decision, we ordered review of all challenged claims but limited the proceeding to the ground based on obviousness under 35 U.S.C. § 103. Paper 12, 22. On May 9, 2018, we modified our institution decision “to include review of all challenged claims and all grounds presented in the Petition.” Paper 20, 2.

On May 16, 2018, with our prior authorization, the parties filed a Joint Motion to Limit the Petition. Paper 22. Specifically, “Petitioner and Patent Owner hereby submit this Joint Motion to Limit the Petition to the actual Ground of Institution set forth at Paper No. 12 (instituting on Ground 3, Obviousness of claims 1-25 over Timmins and Cheng, p. 15).” *Id.* at 2. Removing grounds from dispute, pursuant to a joint request of the parties, serves our overarching goal of resolving this proceeding in a just, speedy, and inexpensive manner. 37 C.F.R. § 42.1(b).

Accordingly, we *grant* the Joint Motion to Limit the Petition. As such, the grounds presented in the Petition based on 35 U.S.C. § 102 are removed from dispute in this proceeding. The sole ground of unpatentability remaining in dispute is the challenge to claims 1–25 based on obviousness under 35 U.S.C. § 103.

It is

ORDERED that the Joint Motion to Limit the Petition is *granted*;

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FURTHER ORDERED that the Petition is limited to the ground of unpatentability asserted against claims 1–25 of the '866 patent based on obviousness under 35 U.S.C. § 103.

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