

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MERCK SHARP & DOHME CORP.,  
Petitioner,

v.

PFIZER INC.,  
Patent Owner.

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Case IPR2017-02131, Patent 9,492,559 B2,  
Case IPR2017-02132, Patent 9,492,559 B2,  
Case IPR2017-02136, Patent 9,492,599 B2, and  
Case IPR2017-02138, Patent 9,492,559 B2

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Record of Oral Hearing  
Held: November 13, 2018

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Before TONI R. SCHNEINER, JEFFREY N. FREDMAN,  
JACQUELINE T. HARLOW, *Administrative Patent Judges.*

Case IPR2017-02131 (Patent 9,492,559 B2)  
Case IPR2017-02132 (Patent 9,492,559 B2)  
Case IPR2017-02136 (Patent 9,492,599 B2)  
Case IPR2017-02138 (Patent 9,492,559 B2)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

ARLENE L. CHOW, ESQUIRE  
ERNEST YAKOB, ESQUIRE  
NITYA ANAND, ESQUIRE  
Hogan Lovells US LLP  
875 Third Avenue  
New York, New York 10022

ON BEHALF OF PATENT OWNER:

JOHN SCHEIBELER, ESQUIRE  
White & Case LLP  
1221 Avenue of the Americas  
New York, New York 10020-1095

--and--

ERIC KRAUSE, ESQUIRE  
PAN C. LEE, ESQUIRE  
White & Case, LLP  
3000 El Camino Real  
2 Palo Alto Square  
Suite 900  
Palo Alto, California 94306-2109

The above-entitled matter came on for hearing on Tuesday,  
November 13, 2018, commencing at 1:01 p.m., at the U.S. Patent  
and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Case IPR2017-02131 (Patent 9,492,559 B2)  
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1                                    P R O C E E D I N G S

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3                    JUDGE SCHEINER: We're going to go on the record  
4 now and we're here in the matter of -- I'm not going to list all the  
5 cases. The first one is IPR2017-02131 and there are three other  
6 cases and it's regarding Patent 9,492,559, and we'd like to have --  
7 let's see, I believe we have each side has 60 minutes, a total of 60  
8 minutes.

9                    Petitioner, you may reserve time for rebuttal, if you'd  
10 like, and -- now, normally the rebuttal -- let me just say that our  
11 practice has been in the past that you can only discuss the Motion  
12 to Amend if Patent Owner addresses it, but I believe we have  
13 changed that procedure now and you may address the Motion to  
14 Amend in your rebuttal.

15                    Let's see. All right. So if you're ready, we'll get started.  
16 If you could give your name for the court reporter, please, starting  
17 with Petitioner. Petitioner will go first. And would you like to  
18 reserve time?

19                    MS. CHOW: Yes, 30 minutes.

20                    JUDGE SCHEINER: 30 minutes. Okay.

Case IPR2017-02131 (Patent 9,492,559 B2)  
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1 MS. CHOW: But to be clear, Your Honor, in my  
2 opening 30 minutes I would be permitted to address both the  
3 original claims as well as the amended claims; is that correct?

4 JUDGE SCHEINER: That's correct.

5 MS. CHOW: Okay. All right. So my name is Arlene  
6 Chow. I'm of Hogan Lovells. I'm on behalf of Petitioner Merck  
7 Sharp & Dohme. I have here with me Ernest Yakob and Nitya  
8 Anand, and from Merck I have Jim Holston, Mary Morry as well  
9 as Cathy Fitch. Thank you.

10 JUDGE SCHEINER: Oh, and actually I forgot, I'm  
11 Judge Scheiner and this is Judge Fredman and we have Judge  
12 Harlow in Denver.

13 MS. CHOW: Thank you.

14 MR. SCHEIBELER: Good afternoon, Your Honors.  
15 This is John Scheibeler from White & Case LLP here on behalf  
16 of the Patent Owner Pfizer Inc. With me is Eric Krause and Pan  
17 Lee also of White & Case on behalf of Pfizer. And here from  
18 Pfizer are Matthew Pugmire and Keith Hutchinson. Thank you,  
19 Your Honors.

20 JUDGE SCHEINER: Good morning, everyone. And  
21 let me just confirm that this is a public hearing. Okay. Is that  
22 correct? Okay. Because we have observers, so. Okay.

23 Whenever you're ready, Ms. Chow, you can begin.

Case IPR2017-02131 (Patent 9,492,559 B2)  
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1 MS. CHOW: Just a bit of housekeeping.

2 JUDGE SCHEINER: Yes.

3 MS. CHOW: If Your Honors would like printed  
4 copies --

5 JUDGE SCHEINER: Sure.

6 MS. CHOW: -- of the demonstratives. May I  
7 approach?

8 JUDGE SCHEINER: Were you able to provide the  
9 court reporter with one?

10 MS. CHOW: Yes. She has it open I see.

11 JUDGE SCHEINER: Thanks. I can't see from here.

12 MS. CHOW: Ms. Harlow, is it okay if I -- should I  
13 leave it with you for --

14 JUDGE SCHEINER: That would be up to Judge  
15 Harlow.

16 Would you care to have paper copies of these sent to  
17 you?

18 JUDGE HARLOW: I prefer to use the electronic copy.  
19 Thank you.

20 MS. CHOW: If I may proceed.

21 JUDGE SCHEINER: Please.

22 MS. CHOW: Thank you. May it please the Court.

23 There is no invention of the '559 patent. Patent Owner did not

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