

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MALLINCKRODT PHARMACEUTICALS IRELAND LIMITED,
Petitioner

v.

BIOVIE, INC.,
Patent Owner.

Case IPR2018-00974
Patent 9,655,945 B2

Record of Oral Hearing
Held: August 12, 2019

Before MICHELLE N. ANKENBRAND, *Acting Vice Chief Administrative Patent Judge*, ERICA A. FRANKLIN, and KRISTI L. R. SAWERT, *Administrative Patent Judges*.

Case IPR2018-00974
Patent 9,655,945 B2

APPEARANCES:

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The above-entitled matter came on for hearing on Monday, August 12, 2019, commencing at 1:00 p.m. at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

P-R-O-C-E-E-D-I-N-G-S

1:03 p.m.

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3 JUDGE SAWERT: Good afternoon, everyone. We have our final
4 hearing in IPR2018-00974 between Petitioner Mallinckrodt Pharmaceuticals
5 Ireland Limited and Patent Owner BioVie, Inc.

6 I'm Judge Sawert. I'm joined today by Acting Vice-Chief Judge
7 Ankenbrand and by Judge Franklin who is attending remotely.

8 So let's start with introductions. We will start with Petitioner.
9 Counsel, will you please introduce yourselves and let us know who will be
10 presenting today.

11 MR. MURPHY: Good morning, Your Honor. James Murphy on
12 behalf of Petitioner. And with me today is Kevin Davis, both of Polsinelli
13 Law Firm and also with us is Kenneth Goetz, the representative of Petitioner
14 and I'll be presenting the argument today.

15 JUDGE SAWERT: Okay. Thank you. Welcome. And for Patent
16 Owner?

17 MS. GRIMM: Your Honor, I'm Nicole Grimm of McDonnell
18 Boehnen Hulbert & Berghoff.

19 JUDGE SAWERT: Sorry about that. Continue. I can hear. Thank
20 you.

21 MS. GRIMM: With me today is Patrick Gattari also of McDonnell
22 Boehnen Hulbert & Berghoff, and we're here on behalf of Patent Owner
23 BioVie, Inc. And also with us is Dr. Penelope Markham. She is the Chief

1 Scientific Officer of BioVie, Inc. and also one of the inventors on the patent
2 involved in this proceeding.

3 JUDGE SAWERT: Okay. Thank you. Welcome, everyone. I know
4 there was some questions about the procedure for today's hearing, so I'll take
5 a moment to clarify.

6 Each side will have 60 minutes to present arguments. Petitioner
7 bears the ultimate burden of proof that the claims at issue in this review are
8 unpatentable.

9 Petitioner, you will go first to present your case with regard to claims
10 and grounds on which trial was instituted and you may also address Patent
11 Owner's motion to amend in the first instance.

12 Petitioner, you may reserve no more than half of your time for
13 rebuttal.

14 Patent Owner will then respond to Petitioner's argument. Patent
15 Owner may also address its motion to amend and may reserve time for
16 surrebuttal.

17 Petitioner, you may then use any of your remaining time for reply
18 regarding the challenged claims and opposition to Patent Owner's motion to
19 amend.

20 And finally, to the extent that Patent Owner reserves time, Patent
21 Owner may respond to any of Petitioner's arguments made during
22 Petitioner's reply.

1 A couple of housekeeping items. Please remember that when you are
2 going through your presentation, please state the number of the slide that
3 you are on. This will make it much easier when we go back and read the
4 transcript.

5 And also please remember that you are not allowed to interrupt the
6 other party. Please save any objections you have for your own argument
7 time or before we adjourn.

8 Do you have any questions, Petitioner?

9 MR. MURPHY: No, Your Honor.

10 JUDGE SAWERT: Thank you. And Patent Owner?

11 MS. GRIMM: No, Your Honor.

12 JUDGE SAWERT: Okay. Thank you. So with that, we are ready to
13 begin.

14 Petitioner, how much time do you wish to reserve?

15 MR. MURPHY: Reserve 20 minutes for rebuttal.

16 JUDGE SAWERT: So I will set your time for 40 minutes. And you
17 may begin when you're ready.

18 MR. MURPHY: Good morning, Your Honors. So today we want to
19 talk to you about the petition, but we don't want to spend any time on the
20 issues that aren't disputed so we will be relying principally on our briefs for
21 those issues. But we want to focus on the disputed issues here with you
22 today.

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