

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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EXTRACTIONTEK SALES LLC,  
Petitioner,

v.

GENE POOL TECHNOLOGIES, INC.,  
Patent Owner.

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IPR2022-00832 (Patent 9,145,532 B2)  
IPR2022-01011 (Patent 9,144,751 B2)<sup>1</sup>

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Before JEFFREY N. FREDMAN, CYNTHIA M. HARDMAN, and  
JAMIE T. WISZ, *Administrative Patent Judges*.

HARDMAN, *Administrative Patent Judge*.

ORDER  
Dismissing as Moot Petitioner's Motion  
to Submit Supplemental Information  
37 C.F.R. § 42.123

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<sup>1</sup> This Order addresses the same issues in each of the above-listed proceedings. We issue one Order to be filed in each proceeding. The parties are not authorized to use this heading style in any subsequent papers.

IPR2022-00832 (Patent 9,145,532 B2)  
IPR2022-01011 (Patent 9,144,751 B2)

On May 2, 2023, Petitioner filed an authorized, unopposed motion to submit as supplemental information excerpts of a deposition transcript of Patent Owner's declarant, Dr. Gregory Miller, taken in a related proceeding (IPR2022-00625). *See* IPR2022-00832, Paper 24 ("Mot."), at 1.<sup>2</sup> Petitioner attached the transcript excerpts as Exhibit A to its motion.

We dismiss the motion as moot because the transcript excerpts Petitioner seeks to submit as supplemental information are already of record. Specifically, on April 18, 2023, Petitioner filed the exact same transcript excerpts in support of its Reply to Patent Owner's Response. *See* Exhibit 1021.

To the extent Petitioner is asking the Board to address the propriety of Petitioner using in the instant proceeding a deposition transcript taken in a related proceeding, the Board declines to do so in the context of this motion. *See* Mot. 1–2 (discussing case law addressing propriety of using a deposition transcript in one proceeding that was taken in a co-pending proceeding), 2 (arguing that "requiring Petitioner to conduct separate depositions to elicit the same information from the same witness would place an undue financial burden on both parties"). Typically, a motion to submit as supplemental information is used to submit evidence "separate and apart from any brief." *See* IPR2018-01499, Paper 19, at 3. Here, the evidence in question is already of record, and was submitted together with Petitioner's Reply brief. We note that Petitioner's cited case law, in contrast, considered the propriety of using the transcript in the context of a motion to exclude. *See* IPR2016-

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<sup>2</sup> For convenience we cite only to the record in IPR2022-00832. Petitioner filed a substantively similar motion in IPR2022-01011. *See* IPR2022-01011, Paper 26 (Mot.).

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01245, Paper 56, at 97–100. The current record does not reflect any objections to or motion to exclude the transcript excerpts. *See* 37 C.F.R. § 42.64.

### ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner’s motion to submit supplemental information is *dismissed*.

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IPR2022-01011 (Patent 9,144,751 B2)

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