

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GRÜNENTHAL GMBH,
Petitioner,

v.

ANTECIP BIOVENTURES II LLC,
Patent Owner.

Case PGR2017-00022
Patent 9,408,862 B2

Record of Oral Hearing
Held: July 24, 2018

Before GRACE KARAFFA OBERMANN, TONI R. SCHEINER, and
FRANCISCO C. PRATS, *Administrative Patent Judges*.

Case PGR2017-00022
Patent 9,408,862 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Tuesday, July 24, 2018, 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

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JUDGE OBERMANN: Good afternoon and welcome to the PTAB. On the record, please, this is a final hearing in PGR2017-00022, Grünenthal GMBH versus Antecip Bioventures. It's a post-grant review in which the petition states challenges against claims 1 through 30 of U.S. patent number 9,408,862 B2. Patent owner has disclaimed claim 1 and has filed a motion to amend.

I'm Judge Obermann, and to my right is Judge Scheiner. Judge Prats is appearing remotely today. He is located in Hershey, Pennsylvania. He will be on the screen there on my left. Please be aware that because Judge Prats is appearing remotely, I want to remind both sides to please identify exhibits by number so that he can pull them up on his screen. You'll see us looking at our screens a lot. I assure you that we are following your case. We have electronic copies of your demonstratives. We have all the briefs on our computer. We are not shopping. We are not checking our e-mails. We are paying attention to what you are doing. But if you see us scrolling around, it's because we are looking for either an exhibit or a page in one of your briefs.

In that regard, it's really not enough for you to describe the exhibit as the Wilson deposition or the Wargin declaration. It's really helpful for us if you can tell us the number of the exhibit, especially for Judge Prats to pull it up on his computer screen.

1 So let's start with introductions. Who is presenting for -- I'll start
2 with petitioner since you'll be going first.

3 MR. MINION: Petitioner is on this side, Your Honor.

4 JUDGE OBERMANN: You have got petitioner on your table and
5 you have got patent owner on your side. I will get confused without that.
6 I'm so sorry. Who do we have for petitioner today?

7 MR. MINION: Good afternoon, Your Honor. Daniel Minion
8 from Fitzpatrick, Cella, Harper & Scinto on behalf of petitioner, Grünenthal.
9 With me is lead counsel, Bruce Haas. Also with me are Jim Tyminski and
10 Katherine Adams.

11 JUDGE OBERMANN: And you are Mr. Minion?

12 MR. MINION: Yes.

13 JUDGE OBERMANN: I didn't see your name on the -- have you
14 noticed an appearance?

15 MR. MINION: I have, Your Honor, yes.

16 JUDGE OBERMANN: All right. I must have just been looking at
17 an earlier paper.

18 MR. MINION: It was not in the beginning. It was later in time.

19 JUDGE OBERMANN: Are you appearing pro hoc vice?

20 MR. MINION: No, I'm admitted.

21 JUDGE OBERMANN: Thank you very much, Mr. Minion. Who
22 do we have for patent owner today?

23 MR. KATZ: Michael Katz, Your Honor.

1 JUDGE OBERMANN: Thank you, Mr. Katz. And Mr. Minion,
2 will anyone else be presenting argument for petitioner today or will you be
3 doing the whole argument?

4 MR. MINION: No, Your Honor, just me.

5 JUDGE OBERMANN: And Mr. Katz?

6 MR. KATZ: I anticipate doing the full argument.

7 JUDGE OBERMANN: Thank you. Each party has 60 minutes of
8 total time to present argument. We have put out a hearing order that I'm sure
9 you are both familiar with. Petitioner will go first and may reserve time for
10 rebuttal. That's the first thing I'll be asking you before I start the time. Then
11 patent owner will present argument, including any argument that you may
12 want to present on your motion to amend and secondary considerations of
13 nonobviousness. And patent owner, you may reserve time to present
14 rebuttal that's specifically limited to just those two issues if you like. So
15 that's the first thing I'll be asking you, Mr. Katz, when you stand is whether
16 you want to reserve any time in view of what you hear from petitioner.

17 MR. KATZ: Understood.

18 JUDGE OBERMANN: I remind everyone that this hearing is
19 open to the public. I looked last night and I didn't see any protective order.
20 I didn't see any confidential information that's been introduced into the
21 record. So I don't foresee any problems with this being open. Neither party
22 has filed objections to demonstratives, and I appreciate that. I'll just remind
23 counsel that the demonstratives are merely argument aids and they have
24 been served but they are not filed in the record. We prefer it that way. And
25 as I mentioned previously, each judge has access to those demonstratives on

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