

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GRÜNENTHAL GMBH,
Petitioner,

v.

ANTECIP BIOVENTURES II LLC,
Patent Owner.

Case PGR2018-00001
Patent 9,539,268 B2

Record of Oral Hearing
Held: February 7, 2019

Before GRACE KARAFFA OBERMANN, TONI R. SCHEINER, and
SHERIDAN K. SNEDDEN, *Administrative Patent Judges*.

Case PGR2018-00001
Patent 9,539,268 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Thursday, February 7, 2019, commencing at 1:05 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: This is a final oral hearing in PGR2018-00001. The case is Grünenthal GMBH versus Antecip Bioventures II, LLC. At issue is the patentability of claims 3 through 30 of U.S. patent number 9,539,268. I'm Judge Grace Obermann. On my right here is Judge Toni Scheiner, and we also have Judge Sheridan Snedden.

Let's start with counsel introductions. Who do we have in the courtroom for petitioner today?

MR. MINION: Your Honor, Daniel Minion of Venable. Also with me is James Tyminski and lead counsel, Bruce Haas.

JUDGE OBERMANN: Thank you. And who will be presenting argument today?

MR. MINION: I will, Your Honor.

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

MR. JOHNSON: Your Honor, Brent Johnson. I'm the only one.

JUDGE OBERMANN: Great. Thank you so much.

Okay. We are in receipt of both parties' demonstrative exhibits. We did not receive any objections. I just want to confirm, petitioner, you have no objections with patent owner's demonstratives?

MR. MINION: That's correct, Your Honor.

1 JUDGE OBERMANN: And a patent owner has no objections with
2 petitioner's?

3 MR. JOHNSON: No objections.

4 JUDGE OBERMANN: Thank you so much, counsel. I appreciate
5 that. I also looked at the record last night and I saw no introduction of any
6 confidential information in the record. So we don't have to worry about that
7 either; is that correct?

8 MR. MINION: That's correct.

9 JUDGE OBERMANN: Both sides have 60 minutes of total
10 argument time. Petitioner's counsel will present first and you may reserve
11 some reply time. Then patent owner will present second, and you also may
12 reserve some sur-reply time. Would petitioner like to reserve some time?

13 MR. MINION: Yes, Your Honor, I would like to reserve
14 15 minutes.

15 JUDGE OBERMANN: I'm going to set the clock then for
16 45 minutes. Fifteen minutes will remain. And I'll start the clock running
17 when you begin speaking, Mr. Minion.

18 MR. MINION: Thank you, Your Honor. I did bring extra copies,
19 if that makes a difference to anybody.

20 JUDGE OBERMANN: I actually prefer -- we have everything on
21 the computer screen, but would either of my colleagues like a copy?

22 JUDGE SCHEINER: Actually, I would. I sometimes take notes
23 on it temporarily. Thank you.

1 JUDGE SNEDDEN: Thank you.

2 JUDGE OBERMANN: Mr. Minion, I didn't see your name on the
3 briefs. Are you pro hoc vice?

4 MR. MINION: I'm admitted to the bar.

5 JUDGE OBERMANN: Thank you very much. I'll start when you
6 are ready.

7 MR. MINION: Thank you, Your Honor. May it please the Board,
8 in the '268 patent we have two different independent claims. I'm going to
9 start with claim 23. And for Judges Obermann and Scheiner, this will look
10 familiar to you, this slide. I have arranged the claim in a shorthand as I did
11 before in the '862 PGR. This is -- there are four elements of the claim dosage
12 form for oral administration containing zoledronic acid in a salt form free of
13 other therapeutically active agents having a bioavailability in humans of 1.2
14 to 4 percent. The only difference between this claim and the claims in the
15 '268 -- or the '862 patent, sorry, PGR, that were found unpatentable is that
16 these claims are specifically directed to salt forms of zoledronic acid.

17 JUDGE OBERMANN: Did the other claims have the
18 bioavailability?

19 MR. MINION: The same range, Your Honor.

20 JUDGE OBERMANN: And what was that PGR number?

21 MR. MINION: That was 2107.

22 JUDGE OBERMANN: Is that 0022?

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