

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GRÜNENTHAL GMBH,
Petitioner,

v.

ANTECIP BIOVENTURES II LLC,
Patent Owner.

Case PGR2018-00062
Patent 9,707,245 B2

Record of Oral Hearing
Held: July 31, 2019

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

Case PGR2018-00062
Patent 9,707,245 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

JAMES R. TYMINSKI, ESQUIRE
BRUCE C. HAAS, ESQUIRE
KATHERINE E. ADAMS, ESQUIRE
Venable LLP
Rockefeller Center
1270 Avenue of the Americas, 24th Floor
New York, New York 10020

ON BEHALF OF THE PATENT OWNER:

BRENT A. JOHNSON, ESQUIRE
Maschoff Brennan
100 Spectrum Center Drive, Suite 1200
Irvine, California 92618

The above-entitled matter came on for hearing on Wednesday, July 31, 2019, commencing at 10:00 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

1 - - - - -

2 MS. BOBO: All rise.

3 JUDGE OBERMANN: Good morning. You may be seated. It's just
4 going to take us a couple of minutes to get our computers awake and then
5 we'll begin. This is a final hearing in Grünenthal GMBH versus Antecip
6 Bioventures II LLC. It's Case PGR 2018-00062, and at issue are certain
7 claims of Patent 9, 707, 245.

8 I'm Grace Obermann and I have with me today Judge Toni Scheiner,
9 as well as Judge Sheridan Snedden. We issued an order on July 10th that
10 will cover this proceeding. Both sides were given 60 minutes of total
11 argument time to present their case.

12 I will just remind counsel that you are to confine yourselves to
13 arguments and evidence that was raised in a principal brief. By that I mean,
14 the Petition, the full response, the reply, and the sur-reply in this case. Both
15 sides may reserve some rebuttal time, and when you come to the podium
16 please let me know whether you'd like to reserve any of your primary time
17 for rebuttal.

18 And with that, I'd like to have counsel please introduce yourselves for
19 the record. We'll start with Petitioner.

20 MR. TYMINSKI: Good morning, Your Honor, this is James
21 Tyminski from Venable LLP on behalf of the Petitioner in this case, and I'm
22 joined today by lead counsel, Bruce Haas, also of Venable LLC, Katherine
23 Adams, and William Solander.

24 JUDGE OBERMANN: Thank you. And it's Mr.?

25 MR. TYMINSKI: Tyminski.

1 JUDGE OBERMANN: Tyminski. Thank you, Mr. Tyminski. Will
2 you be providing all the argument today for your client?

3 MR. TYMINSKI: Yes, I'll provide the entire argument.

4 JUDGE OBERMANN: Thank you very much. And who do we have
5 for Patent Owner?

6 MR. JOHNSON: Good morning, Your Honors. It's Brent Johnson
7 from Maschoff Brennan. I represent the Patent Owner.

8 JUDGE OBERMANN: Thank you Mr. Johnson. With that when
9 you're ready, if you can approach the podium Mr. Tyminski, and if you'd just
10 halt for a second and tell me whether you'd like to reserve any rebuttal time,
11 and I can set your clock.

12 MR. TYMINSKI: Yes, I would like to reserve time for rebuttal. I'd
13 like to reserve 20 minutes.

14 JUDGE OBERMANN: Okay. If you give me just a minute, I'm
15 going to set the clock up for 40 minutes. You'll be able to see it right behind
16 me, and when you're ready I'll start the clock ticking.

17 MR. TYMINSKI: Good morning, may it please the Board. My name
18 is James Tyminski. I'll be arguing on behalf of the Petitioner today. I'd like
19 to start by taking a look at Claim 1 of the 245 Patent.

20 It is the only independent claim in the patent, and it's directed to a
21 method of treating pain associated with Complex Regional Pain Syndrome,
22 abbreviated CRPS, by administering neridronic acid to a human being with
23 CRPS where a bone fracture was a predisposing event for that CRPS, and
24 where the neridronic acid is in a salt or an acid form.

1 The main element of this principal independent claim that's in dispute
2 here today is the bone fracture as a predisposing even for CRPS. So, I think
3 that's where most of the discussion will be centered on.

4 Moving to Slide 3, this is a summary of the grounds that are set forth
5 in our Petition, so I'll start by talking about why the bulk of the claims are
6 anticipated, or obvious, over the Varena 2012 Reference alone.

7 JUDGE OBERMANN: Are you going to treat the issue that seems to
8 have crystalized towards the end, and that is Varena's prior art status? Is
9 that going to be part of your presentation?

10 MR. TYMINSKI: Yes, I do plan to address that as part of my initial
11 presentation, and I expect Patent Owner to say about that so I may also
12 address it in rebuttal.

13 JUDGE OBERMANN: Okay.

14 MR. TYMINSKI: After discussing obviousness, or anticipation over
15 Varena alone, I'll move on to why all the claims are obvious over Varena
16 2012 in combination with other prior art. And then finally I'll discuss
17 Petitioner's Section 112, written description ground.

18 So, beginning with anticipation by Varena 2012, this applies the
19 claims 1 through 4, 9 and 10, 12, 14, 16 through 18, 23 to 24, and 27
20 through 29. On Slide 5, I've shown Independent Claim 1, again, and just
21 moving on to Slide 6, how Varena 2012 teaches these claim elements.

22 The first quote here is from Varena 2012. It concludes that
23 neridronic acid is effective to treat CRPS. We know it's effective to treat
24 pain because the efficacy measure that Varena used was a reduction in
25 visual VAS pain scores. So, we know that Varena broadly teaches that
26 neridronic acid is effective to treat CRPS.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.