

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

INCYTE CORPORATION,
Petitioner,

v.

CONCERT PHARMACEUTICALS, INC.,
Patent Owner.

PGR2021-00006
Patent 10,561,659 B2

Record of Oral Hearing
Held: February 10, 2022

Before CHRISTOPHER G. PAULRAJ, ROBERT A. POLLOCK, and
DEVON ZASTROW NEWMAN, *Administrative Patent Judges*.

PGR2021-00006
Patent 10,561,659 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

MARK FELDSTEIN, ESQUIRE
DREW CHRISTIE, ESQUIRE
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ON BEHALF OF PATENT OWNER:

MARTA E. DELSIGNORE, ESQUIRE
GERARD J. CEDRONE, ESQUIRE
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The above-entitled matter came on for hearing on Thursday, February 10, 2022, commencing at 1:00 p.m., EDT, at the U.S. Patent and Trademark Office, by video/by telephone.

P R O C E E D I N G S

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2 JUDGE NEWMAN: Hello everyone. Welcome. We are
3 here in the matter of Incyte Corporation v. Concert
4 Pharmaceuticals, Inc., in PRG 2021-00006 regarding patent No.
5 10,561,659. Can you please for Petitioner's side identify who is
6 here with us today? I'm sorry, I can't hear you speaking. You
7 need to unmute yourself on the microphone.

8 MR. FELDSTEIN: Sorry, Your Honor. This is Mark
9 Feldstein from Finnegan, Henderson on behalf of Petitioner
10 Incyte Corporation. I'll be joined today in the argument by my
11 colleague, Drew Christie, also of Finnegan, Henderson.

12 JUDGE NEWMAN: Thank you. And for Patent Owner?

13 MS. DELSIGNORE: Good afternoon. Marta Delsignore of
14 Goodwin Proctor. I am here today with Gerard Cedrone, Emily
15 Rapalino and Daryl Wiesen who will be speaking on behalf of
16 Patent Owner.

17 JUDGE NEWMAN: All right. I have to admit I'm having
18 some trouble hearing you. We need to find a way to get your
19 volume much higher if possible.

20 MS. DELSIGNORE: Can you hear me now, Your Honor?

21 JUDGE NEWMAN: Still very light. Panel members, are
22 you also having trouble hearing? Yes. We're going to need your
23 volume much higher or if you could be closer to the microphone

1 somehow that would be helpful.

2 MS. DELSIGNORE: Your Honor, can you hear me now?

3 JUDGE NEWMAN: That is slightly better but it's still
4 going to be a bit difficult.

5 (Pause.)

6 JUDGE NEWMAN: Okay. Why don't we take five minutes
7 and see if we can't get our technology team to get better access
8 on this.

9 (Pause, due to technical difficulties.)

10 MS. DELSIGNORE: Is this better, Your Honor?

11 JUDGE NEWMAN: I can hear that a little bit more clearly.
12 Other panel members as well? Okay. I think we can proceed
13 with that. Thank you. All right. So would you please, Ms.
14 Delsignore, please identify again who is representing Patent
15 Owner, yourself and who else.

16 MS. DELSIGNORE: Representing Patent Owner today are
17 Gerard Cedrone, Emily Rapalino and Daryl Wiesen. I apologize
18 for the delay, Your Honor.

19 JUDGE NEWMAN: That's quite all right. And court
20 reporter, do you need spelling on any of those names?

21 THE REPORTER: No.

22 JUDGE NEWMAN: Great. Okay. We'll proceed, and each
23 side has 60 minutes but because there also has been an
24 application for a LEAP practitioner speaking on each side we
25 have an additional 15 minutes bringing the total to 75 minutes

1 per side. Petitioner will proceed first and Petitioner, would you
2 like to reserve any time for rebuttal?

3 MR. FELDSTEIN: Yes, Your Honor. I'd like to reserve 15
4 minutes for rebuttal.

5 JUDGE NEWMAN: All right. And for Patent Owner?

6 MS. DELSIGNORE: We would like to reserve 15 minutes
7 for rebuttal.

8 JUDGE NEWMAN: And we'll give you a one minute
9 warning unless you wanted some different period of time.

10 MR. FELDSTEIN: That's fine for us, Your Honor.

11 MS. DELSIGNORE: That's fine.

12 JUDGE NEWMAN: Okay. Great. And we can jump right
13 in but does anyone want to address the Motions for Exclusions of
14 Testimony first? You don't have to but you're welcome to.

15 MR. FELDSTEIN: Your Honor, on Petitioner's side we
16 were going to address the motions. We had intended to do them
17 second but we'll do them first if you prefer.

18 JUDGE NEWMAN: You may choose the order, that's fine
19 with us.

20 MR. FELDSTEIN: We'll do it second then.

21 JUDGE NEWMAN: All right. Are we ready to go? We
22 can start the testimony clock. Okay. Let's go. Please begin.

23 MR. FELDSTEIN: Thank you, Your Honor. Again, Mark
24 Feldstein on behalf of Petitioner Incyte Corporation in this PGR.
25 I'd like to direct the Court's attention, I understand we're not

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