

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TRANSGENE and BIOINVENT INTERNATIONAL AB,
Petitioner,

v.

REPLIMUNE LIMITED,
Patent Owner.

PGR2022-00014
Patent 10,947,513 B2

Before ERIC W. HAWTHORNE, *Supervisory Trial Paralegal*

ERRATUM

The Conduct of the Proceeding order Granting-In-Part Petitioner's Request to File a Pre-Institution Reply 37 C.F.R. § 42.5 (Order), issued on April 6, 2022, omitted electronic service to Patent Owner's counsel at page 3. A corrected copy is attached to this erratum. All deadlines from the April 6, 2022, Order remain unchanged.

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Before CHRISTOPHER G. PAULRAJ, ROBERT A. POLLOCK, and
JAMIE T. WISZ, *Administrative Patent Judges*.

PAULRAJ, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
Granting-In-Part Petitioner's Request to File a Pre-Institution Reply
37 C.F.R. § 42.5

On April 6, 2022, we held a conference call with counsel for the parties and the judges on this panel participating. A transcript of the call will be made of record in this proceeding. The purpose of the call was to discuss Petitioner's request to file a pre-institution Reply to address certain arguments raised in Patent Owner's Preliminary Response. In particular, Petitioner seeks a Reply to address: the legal effect of Patent Owner's statutory disclaimer of challenged claims 1–8, 10–12, and 14–26, Patent Owner's arguments for discretionary denial under 35 U.S.C. § 325(d), Patent Owner's arguments related to burdens and certain evidentiary showings concerning Petitioner's reliance on "common knowledge," and Petitioner's request for a refund for additional claim fees paid for the disclaimed claims.

As explained during the conference call, the standard for authorizing a pre-institution reply is good cause. 37 C.F.R. § 42.208(c). Having considered the parties' respective positions, we determine that good cause exists for Petitioner to file a Reply limited to the § 325(d) issue. At this point, we do not authorize further briefing on the other issues requested by Petitioner.

Accordingly, it is hereby:

ORDERED that Petitioner is authorized to file a pre-institution Reply limited to addressing the § 325(d) argument raised in Patent Owner's Preliminary Reply; such a Reply shall be limited to 5 pages and filed no later than April 15, 2022; no further evidence is authorized to be submitted with Petitioner's Reply.

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