

Patent Owner's Request for Adverse Judgment

Filed on behalf of Patent Owner Genentech, Inc. by:

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UNITED STATES PATENT AND TRADEMARK OFFICE

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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CELLTRION, INC.,  
Petitioner,

v.

GENENTECH, INC.,  
Patent Owner.

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Case IPR2017-00959  
U.S. Patent 8,591,897

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**PATENT OWNER'S REQUEST FOR ADVERSE JUDGMENT  
UNDER 37 C.F.R. § 42.73(b)(2)**

On February 21, 2017, Petitioner Celltrion, Inc. filed a petition for *inter partes* review of claims 1-13 of U.S. Patent No. 8,591,897 (“the ’897 patent”). (See Paper 2.) Patent Owner Genentech did not file a patent owner preliminary response. The Board has not yet issued an institution decision, but the statutory deadline for institution is September 14, 2017, three months after the last date on which Patent Owner could have filed a preliminary patent owner response. See 35 U.S.C. § 314(b).

Patent Owner respectfully requests that the Board cancel all challenged claims (claims 1-13) of the ’897 patent. See 37 C.F.R. § 42.73(b)(2). In view of the requested cancellation of the challenged claims of the ’897 patent, Patent Owner further requests that the Board enter an adverse judgment against Patent Owner and terminate this proceeding. See 37 C.F.R. § 42.73(b) (“A party may request judgment against itself at any time during a proceeding.”); *Broadcom Ltd v. Tessera, Inc.*, IPR2017-00889, Paper No. 7 at 1-2 (June 19, 2017) (granting request to cancel claims and entering adverse judgment prior to institution).

Patent Owner has conferred with Petitioner concerning this request, and Petitioner has indicated that it does not oppose. The Board provided authorization to file this request by an email dated September 5, 2017.

Patent Owner's Request for Adverse Judgment

Accordingly, Patent Owner respectfully requests that the Board (1) cancel all challenged claims (claims 1-13) of the '897 patent; (2) enter an adverse judgment against Patent Owner; and (3) terminate the proceeding.

Respectfully submitted,

Date: September 7, 2017

By: /David L. Cavanaugh/  
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**CERTIFICATE OF SERVICE**

I hereby certify that, on September 7, 2017, I caused a true and correct copy of the foregoing "Patent Owner's Request For Adverse Judgment" to be served by electronic mail upon the following counsel of record for Petitioner:

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