# UNITED STATES PATENT AND TRADEMARK OFFICE 

## BEFORE THE PATENT TRIAL AND APPEAL BOARD

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& \text { APOTEX INC., } \\
& \text { Petitioner, }
\end{aligned}
$$ v. WYETH LLC, Patent Owner.

Case IPR2014-00115
Patent 7,879,828 B2

Before LORA M. GREEN, FRANCISCO C. PRATS, and JO-ANNE M. KOKOSKI, Administrative Patent Judges.

GREEN, Administrative Patent Judge.

ORDER
Conduct of the Proceeding
37 .F.R. § 42.5

A conference call was held on Tuesday, July 15, 2014, among Stanley Fisher and David Berl, representing Patent Owner; Travis Ribar and Raja Saliba, representing Petitioner; and Judges Green, Prats, and Kokoski. A court reporter was present on the call, and a transcript is to be filed in due
course by Patent Owner as an exhibit. ${ }^{1}$ Patent Owner requested the call to seek authorization to file a motion for additional discovery.

As an initial matter, we noted that Petitioner had filed the Declaration explaining the circumstances surrounding the signing of Exhibit 1005, which we had asked Petitioner to file in our order of July 14, 2014 (Paper 31), as a paper (Paper 32), rather than an exhibit. We requested that Petitioner refile the Declaration as an exhibit. Petitioner has done so (Ex. 1048), and we thus expunge Paper 32

As to the reason Patent Owner requested the call, Patent Owner noted that in the deposition of Ms. Jennifer Brooks, Ms. Brooks testified that she had not authorized anyone, including Parks IP Translation ("Parks IP"), Ms. Brooks’ employer, to sign her initial Declaration (Ex. 1005). According to Petitioner, Ms. Brooks also testified that she did not approve, or even review, the Declaration. Petitioner also stated that Ms. Brooks stated in her deposition that there were changes from her initial translation in the translation that was filed as Exhibit 1004. Petitioner thus requested additional discovery to determine the circumstances surrounding the changes made to Ms. Brooks's translation before it was filed at the Board as Exhibit 1004.

Petitioner responded that Ms. Brooks was employed by Parks IP, and Parks IP believed it had obtained authorization. An employee of Parks IP signed the Declaration for Ms. Brooks, and had placed their initials by the signature, during the normal course of business of Parks IP. Petitioner noted moreover that Patent Owner had objected to the translation, and a second

[^0]translation has been made of record (Ex. 1046), accompanied by a second declaration of Ms. Brooks (Ex. 1047).

Patent Owner stated that the changes that were made to the first translation, upon which trial had been instituted, infected the whole process. Upon inquiry, Patent Owner acknowledged that the substitute translation cured the objections to the initial translation.

Any discrepancies in the initial translation were cured in the second submitted translation. Thus, the additional discovery would not go to the merits of the patentability isuess upon which trial had been instituted. Upon consideration of the above, as well as the position of the parties as articulated during the conference call, we denied Patent Owner's request to file a motion for additional discovery.

Accordingly, it is
ORDERED that Paper 32 is expunged;
FURTHER ORDERED that Patent Owner is not authorized to file a motion for additional discovery.

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## PETITIONER:

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[^0]:    ${ }^{1}$ This order summarizes the statements made during the conference call. A more detailed record may be found in the transcript.

