

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BLUECATBIO MA INC.,
Petitioner,

v.

YANTAI AUSBIO LABORATORIES CO., LTD.,
Patent Owner.

PGR2020-00051
Patent 10,338,063 B2

Before CHRISTOPHER L. CRUMBLEY, JO-ANNE M. KOKOSKI, and
ELIZABETH M. ROESEL, *Administrative Patent Judges*.

ROESEL, *Administrative Patent Judge*.

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

Pursuant to a February 11, 2021 telephone conference with the panel and the Board's February 12, 2021 Order (Paper 42), the parties, BlueCatBio MA Inc. ("Petitioner") and Yantai AusBio Laboratories Co., Ltd. ("Patent Owner") prepared a stipulation concerning procedures for Patent Owner's cross-examination of Petitioner's declarants, Yoshiki Yagi and Wolfgang Heimberg. Paper 45. In brief, the stipulation provides that Patent Owner

will interview Mr. Yagi remotely by video with the assistance of a Japanese interpreter, and English and Japanese language transcripts of the interview will be prepared and signed by Mr. Yagi and filed as a witness statement. The parties have agreed to use a single Japanese language interpreter for the interview of Mr. Yagi and a single German language interpreter for the video deposition of Mr. Heimberg. The parties have agreed to a procedure whereby Mr. Yagi may request corrections to the witness statement.

After reviewing the parties' stipulation, the Board approves the procedures agreed to by the parties for cross-examination of Mr. Yagi and Mr. Heimberg. As stated in our prior order, the circumstances of the COVID-19 pandemic, Mr. Yagi's residence in Japan, the restrictions on depositions under Japanese law, and the statutory requirement to complete the post-grant review within one year make it necessary to waive the normal requirements that testimony be submitted in the form of a deposition transcript and that depositions take place within the United States before an official authorized to administer oaths and take testimony under 35 U.S.C. § 23. *See* 37 C.F.R. § 42.53(a), (b)(2), (f).

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Board approves the parties' stipulation (Paper 45) concerning procedures for cross-examination of Mr. Yagi and Mr. Heimberg.

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