

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**THE BROAD INSTITUTE, INC., MASSACHUSETTS INSTITUTE OF
TECHNOLOGY, and PRESIDENT AND FELLOWS OF HARVARD
COLLEGE,**

Patents 8,697,359; 8,771,945; 8,795,965; 8,865,406; 8,871,445; 8,889,356;
8,889,418; 8,895,308; 8,906,616; 8,932,814; 8,945,839; 8,993,233; 8,999,641;
9,840,713; Applications 14/704,551; 15/330,876,

Junior Party,

v.

SIGMA-ALDRICH CO., LLC
Application 15/456,204

Senior Party

Patent Interference No. 106,133 (DK)
(Technology Center 1600)

ORDER – Oral Argument
37 C.F.R. § 41.124 and Standing Order ¶ 124

Before DEBORAH KATZ, *Administrative Patent Judge*.

1 Both parties requested oral argument in this interference. (See Papers 351
2 and 353.)

3 It is ORDERED that the requests for oral argument is GRANTED. Oral
4 argument on the parties' preliminary motions is set for **17 November 2022 at 3:00**

Interference 106,133

1 **p.m. (EST)** by telephone (audio only). *See* 37 C.F.R. § 41.124(c). The parties
2 should be prepared to address the issues presented in their motions. Each party
3 will have 20 minutes for argument, with the option of reserving up to five (5)
4 minutes for rebuttal to the other party’s arguments. Junior Party will present their
5 arguments first.

6 It is further ORDERED that the requirement to provide three working copies
7 of motions, oppositions, replies, and exhibits in 37 C.F.R. § 41.124(b) is waived
8 for this proceeding. Each party bears the burden of presenting persuasive
9 arguments and evidence in the motions it files to establish that it is entitled to relief
10 requested in that motion. *See* 37 C.F.R. §§ 41.121(b) and 208(b). Thus, the
11 written motions and supporting evidence filed by the parties, as well as the
12 corresponding oppositions, replies, and supporting evidence, constitute the “trial”
13 of an interference proceeding. To that end, trial testimony of witnesses is
14 presented in the proceeding through written declarations and transcripts of cross-
15 examination depositions submitted with the parties’ briefs. Oral argument in an
16 interference serves as means for the Board to question the parties on issues
17 presented in their briefs and for the parties to summarize their arguments and the
18 supporting evidence. Neither the oral argument nor demonstrative exhibits used
19 during the oral argument will fulfill the requirement that each party must meet its
20 burden in the briefs previously filed. Neither the oral argument nor demonstrative
21 exhibits constitute evidence (other than possible admissions). The demonstratives
22 may not introduce new evidence or argument. Demonstrative exhibits must cite to
23 the location of the evidence in the record.

Interference 106,133

1 Further information concerning oral argument can be found at 37 C.F.R.
2 § 41.124 and Standing Order ¶ 124. To facilitate planning, each party must contact
3 PTAB Hearings at (571) 272-9797 five (5) business days prior to the oral argument
4 date to receive teleconference set-up information. As a reminder, all arrangements
5 and the expenses involved with appearing must be borne by that party.

6 Demonstrative exhibits are not necessary, but if they are to be used they
7 must be served at least five (5) business days before the oral argument and e-
8 mailed to the Board at Trials@uspto.gov or BoxInterferences@uspto.gov. The
9 parties shall not file their demonstrative exhibits in the record of the proceedings
10 without prior authorization from the Board. The Board will provide a court
11 reporter for the oral argument. Any special requests should be directed to
12 PTABHearings@uspto.gov not less than five (5) days before the hearing. The
13 remote nature of the hearing may also result in an audio lag, and so the parties are
14 advised to observe a pause prior to speaking, so as to avoid speaking over others.

15 Members of the public may request to listen in on this oral hearing. If
16 resources are available, the Board generally expects to grant such requests. If
17 either party objects to the Board granting such requests, the party must notify the
18 Board by contacting PTABHearings@uspto.gov at least five (5) business days
19 prior to the oral hearing date.

Interference 106,133

cc (via E-mail):

Attorney for Junior Party Broad:

Raymond N. Nimrod
Quinn Emanuel Urquhart & Sullivan, LLP
raynimrod@quinnemanuel.com
matthewrobson@quinnemanuel.com
michaelmitrayon@quinnemanuel.com

Steven R. Trybus
Locke Lord LLP
Steven.Trybus@lockelord.com
Interference106133@lockelord.com

Attorney for Senior Party Sigma:

Brenton R. Babcock
Dan Liu
Benjamin I. Dach
LOEB & LOEB, LLP
bbabcock@loeb.com
dliu@loeb.com
bdach@loeb.com
BoxSigma133@loeb.com

Benjamin J. Sodey
SIGMA-ALDRICH CORP.
benjamin.sodey@milliporesigma.com