



## PTAB Upholds Breast Cancer Treatment Drug Patent

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The '856 patent, owned by ImmunoGen Inc., covers the drug, Kadcyla, which is used to treat HER2-positive metastatic breast cancer. The '856 patent claims an immunoconjugate comprised of Herceptin, which is a humanized form of a mouse monoclonal antibody, and a maytansinoid, which has cytotoxic properties. Phigenix argued that the claims of the '856 patent were obvious in light of a prior art reference, Chari 1992. Chari 1992 also discloses an immunoconjugate of a humanized form of a mouse monoclonal antibody and a maytansinoid. Petitioner argued that it would have been obvious to substitute Herceptin for the antibody disclosed in Chari 1992. ImmunoGen contended that at the time the '856 patent was filed in March 2000, Herceptin-maytansinoid immunoconjugates would have been expected to cause toxicity in the patient's liver. The PTAB ruled that, given the references disclosing the toxic effect that would have been expected from a Herceptin-maytansinoid immunoconjugate, it would not have been obvious to an ordinary artisan to substitute the Chari 1992 antibody with Herceptin.

Phigenix had also filed a petition seeking inter partes review of U.S. Patent No. 7,097,840, which was also a patent for Kadcyla. The PTAB declined to institute review in that case, finding that it was unlikely that Phigenix would prevail on its claims.

*Phigenix, Inc. v. ImmunoGen, Inc.*, IPR2014-00676, Paper No. 39, (PTAB Oct. 27, 2015).

## Categories

Patent Trial & Appeal Board

Inter Partes Review

Prior Art

Pharmaceuticals

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