

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2007-1026, -1033

WISCONSIN ALUMNI RESEARCH FOUNDATION,

Plaintiff-Cross Appellant,

v.

XENON PHARMACEUTICALS, INC.,

Defendant-Appellant.

Appeal from the United States District Court for the Western District of Wisconsin in case no. 05-CV-242, Chief Judge Barbara B. Crabb.

ON PETITION FOR PANEL REHEARING AND REHEARING EN BANC

Before MICHEL, Chief Judge, NEWMAN, MAYER, LOURIE, RADER, SCHALL, BRYSON, GAJARSA, LINN, DYK, PROST, and MOORE, Circuit Judges, and RESTANI, Chief Judge.*

PER CURIAM.

RADER, Circuit Judge, with whom NEWMAN, LOURIE, and MOORE, Circuit Judges, join, dissents from the denial of the petition for rehearing en banc.

ORDER

A combined petition for panel rehearing and rehearing en banc was filed by the Appellant, and a response thereto was invited by the court and filed by the Cross Appellant. The petition for rehearing was referred to the panel that heard the appeal, and thereafter the petition for rehearing en banc and response were referred to the

* Honorable Jane A. Restani, Chief Judge of the United States Court of International Trade, sitting by designation.

circuit judges who are authorized to request a poll whether to rehear the appeal en banc. A poll was requested, taken, and failed.

Upon consideration thereof,

IT IS ORDERED THAT:

- (1) The petition for panel rehearing is denied.
- (2) The petition for rehearing en banc is denied.
- (3) The mandate of the court will issue on February 5, 2008.

FOR THE COURT

Date

Jan Horbaly
Clerk

cc: Russell L. Johnson, Esq.
Anthony A. Tomaselli, Esq.