

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Trial No.: to be assigned
In re Patent of: Davies
U.S. Patent No.: 7,250,105
Issue Date: July 31, 2007
Serial No.: 10/431,140
Filing Date: May 7, 2003
Title: MEASUREMENT OF SUBSTANCES IN LIQUIDS

filed electronically

NOTICE UNDER 37 CFR 42.11

Pharmatech Solutions, Inc. (“Requester” and “Petitioner”) requested *Inter Partes* Review of all claims (claims 1-3) of U.S. Patent Number 7,250,105 (“the ‘105 Patent”) on April 12, 2013.

The claim construction set forth in the Request is not inconsistent with any position that Requester has taken since: (a) the standards for construing claims at the USPTO are very different from the standards associated with litigation (as discussed at length at p. 6 of the Request); and (b) Requester has not previously taken any position regarding construction in the context of a USPTO proceeding.

Requester has argued—and still maintains—that “proportion(al)” should be construed as “in a fixed ratio” in litigation. This notice is made in an abundance of caution to ensure full compliance with Requester’s duty of candor, though this information is not believed to be relevant to this USPTO proceeding due to the

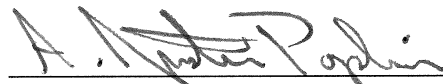
differences in claim construction standards. The following documents from *Lifescan, Inc. v. Shasta Techs., LLC*, 5:11-cv-04494-EJD (N.D.Cal) are enclosed to provide additional context and information:

- Exh. 1026: Defendants' Claim Construction Brief (Doc. 249); and
- Exh. 1027: Lifescan's Reply Markman Brief (Doc. 257).

No fees are believed to be due. But if any unpaid fee is necessary for Requester's petition for *Inter Partes* Review to be considered or maintained, please charge Deposit Account No. 12-0600.

Date: 15 APRIL 2013

Respectfully submitted,
LATHROP & GAGE LLP



A. Justin Poplin, Reg. No. 53,476
2345 Grand Boulevard, Suite 2400
Kansas City, Missouri 64108
Tel No: (913) 451-5130
Fax No: (816) 292-2001