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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PHARMATECH SOLUTIONS, INC.
Petitioner

v.

LIFESCAN SCOTLAND LTD.
Patent Owner

Case IPR2013-00247
Patent 7,250,105

LIFESCAN SCOTLAND LTD.'S PRELIMINARY RESPONSE

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I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.107, Patent Owner LifeScan Scotland Ltd. (“LifeScan”) hereby submits this preliminary response to the Petition filed by Pharmatech Solutions, Inc. (“Petitioner”) on April 11, 2013 requesting *inter partes* review of claims 1-3 of U.S. Patent No. 7,250,105 (“the ‘105 Patent”). LifeScan requests that the Board deny *inter partes* review as to all grounds in the Petition since the Petition fails to demonstrate a reasonable likelihood of proving that any claim in the ‘105 Patent is unpatentable.

The Petition rests on nothing more than conclusory and unsupported allegations as to why one of skill in the art would have purportedly combined a multitude of references (sometimes as many as five) to arrive at the claimed invention. It does little, if anything, to explain how one of skill in the art would even arrive at the claimed invention with the references in hand.

Moreover, the ‘105 Patent claims have now been considered twice in view of the same basic prior art disclosures on which Petitioner now relies. Once was during prosecution in which the method claims were allowed over prior art showing test strips with sensors (like Nankai) and continuous measurement systems (like Schulman and Horii). The patentability of the ‘105 Patent was again considered recently by a district court in conjunction with a preliminary injunction motion brought by LifeScan. In opposing that motion, Petitioner relied on the

exact same references and arguments it now proffers, but, coming to the same conclusion as the Patent Office that the claims define a patentable invention, the district court granted the preliminary injunction, ruling that Petitioner's obviousness arguments were not likely to carry the day.

Because Petitioner has not shown a reasonable likelihood of proving that any claim in the '105 Patent is obvious, its Petition should be denied in its entirety.

II. BACKGROUND

A. The Parties

LifeScan Scotland Ltd. is a subsidiary of Diabetes Diagnostics, Inc., which is a subsidiary of LifeScan, Inc. LifeScan, Inc. is one of five companies that comprise the Johnson & Johnson Family of Diabetes Companies that provide advanced products and services, professional and community education, and advocacy and support to people living with diabetes and their families. LifeScan, Inc. is a world leader in blood glucose monitoring for both home and hospital use.

According to its website, Petitioner claims to be a "distributor of prescription drug, prescription diagnostics, and home testing products in the United States." See Pharmatech Solutions, <http://www.pharmatechdirect.com/> (last visited July 17, 2013).

B. Diabetes/Blood Glucose Monitoring

Diabetes is a disease in which the body is unable to either manufacture or properly utilize insulin. By monitoring their level of blood glucose, usually

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