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

DECLARATION OF JOHN L. SMITH REGARDING PATENTABILITY OF U.S. PATENT 7,250,105

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I. BACKGROUND AND QUALIFICATIONS

1. I, John L. Smith, make this declaration to provide expert opinions and testimony as contextual background for the Patent Trial and Appeal Board of the United States Patent and Trademark Office ("Board") as it considers issues relating to the patentability of U.S. Patent 7,250,105, (the "105 Patent") in an inter partes review requested by Pharmatech Solutions, Inc., Case IPR2013-00247. I have been retained by the firm of Akin Gump Strauss Hauer & Field LLP on behalf of the Patent Owner, LifeScan Scotland Ltd.

2. I earned a Bachelor of Science degree in Chemistry in 1965 from Butler University in Indianapolis, Indiana and a Ph.D. in Analytical Chemistry in 1970 from the University of Illinois at Urbana-Champaign, Illinois.

3. From 1987 through 1998, I was employed by LifeScan, Inc. Between 1987 and 1995, I held the position of Vice President of Research, Development and Engineering. From 1995 to 1998, I was the Chief Scientific Officer of LifeScan.

4. In those positions, I was responsible for research and development for LifeScan's blood glucose monitoring business. I directed fundamental and applied research into techniques for measurement of blood glucose, both in-house and through research contracts worldwide. Because of my earlier experience using and designing electrochemical instrumentation, and patents I had obtained describing

fundamental advances in electrochemical measurement sensitivity, I was familiar with the advantages of electrochemical blood glucose measurements. I instituted research and development programs to convert LifeScan's existing glucose measurement systems, which had been based on photometric (optical measurement of color changes due to glucose) systems, to electrochemical measurements. I was personally involved in the development and evaluation of electrochemical blood glucose test strips and meters at LifeScan. I have been involved in developing novel electrochemical instrumentation since 1963, when I was employed as an analytical technician at the Pitman-Moore Division of the Dow Chemical Company in Indianapolis, Indiana, and modified a commercial polarograph (a device that measures the concentration of substances in solution electrochemically) to add the capability of AC (alternating current) polarography.

5. From 1991 to 1997, I also held the position of Adjunct Professor of Chemistry at San José State University in San José, CA.

6. From 1984 to 1987, I was employed by Baker Instruments in Allentown, PA, as Vice President of Research, Development and Engineering for the development of clinical laboratory instrumentation. From 1978 to 1984, I was employed by the Technicon Corporation in Tarrytown, NY, as a Staff Systems Engineer and Director of Decentralized Testing for clinical laboratory instrumentation and physicians' office testing systems. In this capacity, I

supervised and participated in the development of systems for glucose analysis in point-of-care applications in physicians' offices and other decentralized testing.

7. Earlier employment after graduate school included positions with Princeton Applied Research Corporation in Princeton, NJ, as senior applications chemist and manager of product development for electrochemical instrumentation from 1974-1978, and Union Carbide Corporation in Tarrytown, NY, as an analytical chemist from 1970 to 1974.

8. I was employed from 2004-2006 as a consultant, then as Chief Executive Officer, and later as Chief Technical Officer for Fovioptics, a start-up company in the field of noninvasive blood glucose monitoring.

9. Since 1998, I have also served as a consultant to more than twenty investors and companies in the blood glucose monitoring industry.

10. I am the author of several technical publications dealing with clinical laboratory automation, clinical laboratory analytical instrumentation, and blood glucose monitoring, and I hold nine U.S. patents in the areas of electrochemical instrumentation, clinical laboratory instrumentation, and blood glucose testing. I am the author of a manuscript published on the Internet entitled *The Pursuit of Noninvasive Glucose: "Hunting the Deceitful Turkey" (3rd Edition, 2013).* My resume is included as Exhibit 2009.

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