# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE PATENT TRIAL AND APPEAL BOARD

## AKER BIOMARINE AS Petitioner

V.

## NEPTUNE TECHNOLOGIES AND BIORESSOURCES INC. Patent Owner

**CASE IPR: Unassigned** 

PETITION FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 8,278,351 UNDER 35 U.S.C. §§ 311-319 and 37 C.F.R. §§ 42.1-.80, 42.100-.123

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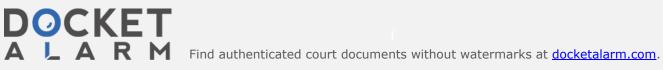


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|   | Ground 6: Claims 1, 19-21, 24, 42-44, 47 and 65-67 are unpatentable under 35 U.S.C.      |
|---|--|
|   | 102(b) over Rogozhin (Ex. 1008)  |
|   | Ground 7: Claims 1-94 are unpatentable under 35 USC 103(a) over Beaudoin I in view of    |
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|   | Ground 8: Claims 1-94 are unpatentable under 35 USC 103(a) over Beaudoin I (Ex. 1002)    |
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#### **INTRODUCTION**

Aker Biomarine AS's ("Petitioner") Petition for Inter Partes Review ("Petition") seeks cancellation of claims 1-94 ("challenged claims") of U.S. Pat. No. 8,278,351 to Sampalis titled "Natural Marine Source Phospholipids Comprising Polyunsaturated Fatty Acids and Their Applications" (the '351 patent)(Exhibit ("Ex.") 1001)). Concurrently filed herewith are a Power of Attorney and Exhibit List pursuant to § 42.10(b) and § 42.63(e), respectively. The Office is authorized to charge fee deficiencies to Deposit Account 50-4302.

#### NOTICE OF LEAD AND BACKUP COUNSEL

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| Reg. No. 44,174           | Reg. No. 55,629            |

### NOTICE OF EACH REAL PARTY IN INTEREST

Aker Biomarine AS, Fjordallèen 16, P.O. Box 1423 Vika, Oslo Norway 0115 is the real party in interest for Petitioners. Aker Biomarine AS is a wholly owned subsidiary of Aker ASA.

#### NOTICE OF RELATED MATTERS



The '351 patent is the subject of a patent infringement lawsuit filed on October 1, 2012 in the United States District Court of Delaware (C.A. No. 12-1252-GMS) and International Trade Commission (ITC) action Investigation No. 337-TA-877. The '351 patent is also the subject of an Ex Parte Reexamination, Control No. 90/012,698, the request for which has been granted. See Ex. 1065. The '351 patent is a continuation of U.S. Pat. 8,030,348 (the "'348 patent"; Ex. 1069), which is currently subject to an Inter Partes Reexamination with the control number 95/001,774. All claims are currently rejected in the Action Closing Prosecution. (See Ex. 1064.) The '348 patent is also the subject a patent infringement lawsuit filed by Neptune Bioressources & Technologies against Aker Biomarine in the United States District Court of Delaware (1:11-cv-00894-GMS).

#### NOTICE OF SERVICE INFORMATION

Please address all correspondence to lead counsel at the address shown above. Petitioner also consents to electronic service by email to:

docketing@casimirjones.com.

#### **GROUNDS FOR STANDING**

Petitioner certifies that the '351 patent is available for *inter partes* review and that Petitioner is not barred or estopped from requesting an *inter partes* review challenging the patent claims on the Grounds identified in this petition.

#### STATEMENT OF THE PRECISE RELIEF REQUESTED



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