

**On Behalf Of:**

Novartis AG and LTS Lohmann Therapie-Systeme AG

**By:**

Raymond R. Mandra  
ExelonPatchIPR@fchs.com  
(212) 218-2100

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

**NOVEN PHARMACEUTICALS INC.  
AND MYLAN PHARMACEUTICALS INC.,**  
Petitioners

v.

**NOVARTIS AG AND LTS LOHMANN THERAPIE-SYSTEME AG,**  
Patent Owners

---

*Inter Partes* Review No. 2014-00549<sup>1</sup>

U.S. Patent 6,316,023

**PATENT OWNERS' REQUEST FOR  
ORAL ARGUMENT PURSUANT TO 37 C.F.R. § 42.70(a)**

---

<sup>1</sup> Case IPR2015-00265 has been joined with this proceeding.

Pursuant to the October 14, 2014 Scheduling Order (Paper 11) in this proceeding and 37 C.F.R. § 42.70(a), Patent Owners Novartis AG and LTS Lohmann Therapie-Systeme AG request that the Patent Trial and Appeal Board hear oral argument on the issues set forth below.

There are currently two pending IPR proceedings between the parties, both of which are scheduled for oral argument on June 2, 2015. The two proceedings are:

- IPR2014-00549<sup>2</sup> (U.S. Patent No. 6,316,023); and
- IPR2014-00550<sup>3</sup> (U.S. Patent No. 6,335,031).

The two patents are within the same patent family. Due to related issues in these cases, Patent Owners respectfully request that the Board allow for a single oral argument for the two above-cited cases. If the Board permits such consolidation for the purpose of oral argument, Patent Owners respectfully request 60 minutes of argument time.

Pursuant to 37 C.F.R. § 42.70(a), Patent Owners specify the following issues to be argued in regards to the two cases, without intent to waive consideration of any issue not requested:

- (1) Petitioners' failure to meet their burden of establishing obviousness of

---

<sup>2</sup> Case IPR2015-00265 has been joined with this proceeding.

<sup>3</sup> Case IPR2015-00268 has been joined with this proceeding.

the claims under any of the instituted Grounds, particularly where:

(a) None of Enz, the Handbook, Rosin, Elmalem, Ebert, Kissel, or Sasaki, alone or in combination, taught or reasonably suggested to the POSA that rivastigmine oxidatively degrades under pharmaceutically relevant conditions,

(b) A POSA would not reasonably have predicted from rivastigmine's structure that rivastigmine would oxidatively degrade under pharmaceutically relevant conditions, and

(c) Thus, the problem of rivastigmine's oxidative degradation under pharmaceutically relevant conditions was unknown as of 1998 and

(d) There was no motivation for a POSA to combine rivastigmine with an antioxidant in a pharmaceutical composition because the art as of 1998 taught a POSA not to include an antioxidant in a pharmaceutical formulation unless one was required.

(2) The absence of expert testimony or references supporting many of the arguments advanced in Petitioners' Reply (Paper 31) and Reply Declarations (Exs. 1031-1032).

(3) The relevance of any art dated after the January 1998 priority date of claims 1-2, 4-5, and 7-8 of the '023 Patent.

(4) Any other issues raised by Petitioners in a request for oral argument (if any), in a motion to exclude (if any), or in any other motion or paper filed by Petitioner before oral argument.

(5) Any other issues that the Board deems necessary for issuing a final written decision.

Petitioners request the ability to use audio-visual equipment to display demonstrative exhibits, including the use of a projector and screen for PowerPoint display.

Dated: April 28, 2015

/s/ Raymond R. Mandra  
Raymond R. Mandra  
Registration No. 34,382  
FITZPATRICK, CELLA, HARPER  
& SCINTO  
1290 Avenue of the Americas  
New York, NY 10104-3800  
Tel. 212-218-2100

## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing PATENT OWNERS' REQUEST FOR ORAL ARGUMENT PURSUANT TO 37 C.F.R. § 42.70(a) was served on April 28, 2015 by causing them to be sent by email to counsel for Petitioners at the following email addresses:

Steven J. Lee (slee@kenyon.com)

Michael K. Levy (mlevy@kenyon.com)

Chris Coulson (ccoulson@kenyon.com)

Joseph M. Reisman (BoxMylan2@knobbe.com)

Jay R. Deshmukh (BoxMylan2@knobbe.com)

William R. Zimmerman (BoxMylan@knobbe.com)

Dated: April 28, 2015

/s/ Raymond R. Mandra  
Raymond R. Mandra  
Registration No. 34,382  
FITZPATRICK, CELLA, HARPER  
& SCINTO  
1290 Avenue of the Americas  
New York, NY 10104-3800  
Tel. 212-218-2100