

THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PHIGENIX INC.,
Petitioner
v.
IMMUNOGEN, INC.
Patent Owner

Case IPR2014-00676
U.S. Patent No. 8,337,856

DECLARATION OF JOHN C. JAROSZ

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I, John C. Jarosz, do hereby declare as follows:

I. INTRODUCTION

1. I am over the age of eighteen (18) and otherwise competent to make this declaration.

A. Assignment

2. I have been retained as an expert on behalf of ImmunoGen, Inc. (“ImmunoGen”) in the above-captioned *inter partes* review (“IPR”).

3. I understand that the Patent Trial and Appeal Board has granted Phigenix, Inc.’s petition to institute this IPR regarding claims 1-8 of U.S. Patent No. 8,337,856 (“the ’856 Patent,” Ex. 1001) on obviousness grounds.

4. I also understand that ImmunoGen is the assignee of the ’856 Patent and that Walter Blättler and Ravi V. J. Chari are the named inventors. I further understand that the ’856 Patent describes and claims, among other things, the immunoconjugate known as T-DM1, which is marketed under the brand name Kadcyła[®], and its use for the treatment of HER2-positive, metastatic (or “late-stage”) breast cancer.

5. I have been asked by counsel to assess whether the sales of Kadcyła can be deemed a commercial success, and whether such success is attributable to

the inventions claimed in the '856 Patent. For the reasons described below, I have concluded that Kadcyła is a commercial success, and its sales success is attributable to the inventions claimed in the '856 Patent.

B. Qualifications

6. I am a Managing Principal of Analysis Group, Inc. (“AG”) and Director of the firm’s Washington, DC office. AG is an economic, financial, and strategy consulting firm with offices in Beijing, China; Boston, MA; Chicago, IL; Dallas, TX; Denver, CO; Los Angeles, CA; Menlo Park, CA; Montreal, Quebec; New York, NY; San Francisco, CA; and Washington, DC. We provide research and analysis in a variety of business, litigation, and regulatory matters, and have particular expertise in intellectual property (“IP”) matters, having been engaged in numerous cases involving patents, copyrights, trademarks, trade secrets, and unfair competition.

7. I am an economist whose specialty is IP valuation, monetary relief assessment, and the economics of commercial success. I have been involved in more than 350 such engagements spanning a broad range of industries, including pharmaceutical products. I received a J.D. from the University of Wisconsin and an M.A. in Economics from Washington University in St. Louis. I also hold a

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