

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

METRICS, INC.
Petitioner,

v.

SENJU PHARMACEUTICAL CO., LTD.
Patent Owner.

U.S. Patent No. 8,129,431 to Sawa *et al.*
Issue Date: March 6, 2012
Title: Aqueous Liquid Preparation Containing 2-Amino-3-(4-bromobenzoyl)
Phenylacetic Acid

Inter Partes Review No.: IPR2014-01041

**PETITIONER'S REQUEST FOR AUTHORIZATION TO FILE A
MOTION TO SUBMIT SUPPLEMENTAL INFORMATION UNDER
37 C.F.R. § 42.123(a)**

Petitioner Metrics, Inc. (“Metrics” or “Petitioner”), hereby requests authorization under 37 C.F.R. § 42.123(a) to file a motion to submit supplemental information relevant to the Challenged Claims for which the trial has been instituted.

Further to the consolidated Initial Conference Call held on March 17, 2015 (*See* EX2025, 21-25), and the Board’s Initial Conference Summary and Order of March 18, 2015 (*See* Paper 23, 5-6), Petitioner served Patent Owner on March 19, 2015 with its Supplemental Evidence and Responses to Patent Owner’s Objections to Petitioner’s Exhibits pursuant to 37 C.F.R. § 42.64(b)(2).

On March 24, 2015, counsel for the Parties conducted a Meet-and-Confer regarding Patent Owner’s pending Objections (“Meet-and-Confer”) to Petitioner’s supplemental evidence. During the Meet-and-Confer, the Parties stipulated to the following issues:

1. Patent Owner agreed to withdraw all Objections to EX1007, EX1017, and EX1028 upon Petitioner’s filing of the following supplemental evidence provided to Patent Owner on March 19, 2015, as supplemental information in this proceeding:

Exhibit 1007: Supplemental information will include a revised affidavit under penalty of perjury as specified in 37 C.F.R. § 1.68 regarding the

translation of the Japanese periodical, “Bromfenac sodium hydrate” published in the *Japanese Pharmacopoeia 2001 Edition: 27-29*, Yakuji Nippo Limited (2001).

Exhibit 1017: Supplemental information will include the date stamped cover and the copyright page bearing the ISSN number for the copy maintained at the University of California Los Angeles Biomedical Library.

Exhibit 1028: Supplemental information will include the date stamped cover and the copyright page bearing the ISBN number of the copy maintained at the University of North Carolina Health Sciences Library.

2. The Parties were unable to reach a resolution during the Meet-and-Confer regarding **Exhibit 1002** as Patent Owner maintained each of its Objections to this Exhibit. Accordingly, Petitioner would like to file the following supplemental evidence provided to Patent Owner on March 19, 2015, as supplemental information in this proceeding:

- An affidavit attesting to the accuracy of the English translation of EX1002, by Ms. Stephanie Box, in compliance with 37 C.F.R. § 1.68.
- To rebut Patent Owner’s Objections that EX1002 is “incomplete, confusing, and misleading” under FRE 403, Petitioner would like to file the supplemental evidence provided to Patent Owner on March 19, 2015, as supplemental information consisting of an English translation of Fig. 2 of EX1002, accompanied by a new affidavit of

Mr. William Clemens under 37 C.F.R. § 1.68, to show that the translation of Fig. 2 was not relied upon by Petitioner in its Petition (Papers 1 and 9).

For the reasons set forth above, Petitioner respectfully requests the Board for authorization to file a motion to submit supplemental information under 37 C.F.R. § 42.123(a) as to EX1002, EX1007, EX1017, and EX1028, which are relevant to the Challenged Claims for which the trial has been instituted.

RESPECTFULLY SUBMITTED,

DUANE MORRIS LLP

Date: March 26, 2015

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CERTIFICATION OF SERVICE ON PATENT OWNER

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on the 26th day of March 2015, a complete and accurate copy of the foregoing Petitioner's Request for Authorization to File a Motion to Submit Supplemental Information under 37 C.F.R. § 42.123(a), was served on Patent Owner by filing this document via the Patent Review Processing System as well as delivering a copy via e-mail on the following counsel for Patent Owner at:

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The Parties have agreed to electronic service in this proceeding.

RESPECTFULLY SUBMITTED,

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