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

SECOND CORRECTED DECLARATION OF UDAY B. KOMPELLA, PH.D.

Metrics EX1003

TABLE OF CONTENTS

I. Introduction

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

2. I have been retained as an expert witness on behalf of Metrics, Inc. for the above captioned *inter partes* review ("IPR"). I am being compensated for my time in connection with this IPR at my standard consulting rate, which is $750 per hour. My compensation is in no way dependent on the outcome of this IPR.

3. I understand that the petition for *inter partes* review involves U.S. Patent No. 8,129,431 ("the '431 patent"), EX1001, which issued on March 6, 2012, from U.S. Application No. 10/525,006 ("the '006 application"), naming Shirou Sawa and Shuhei Fujita as the inventors. The '006 application is the U.S. National Stage of PCT Application No. PCT/JP2004/000350 ("the '350 application), filed on January 16, 2004. The '350 application claims priority to Japanese Application No. 2003-12427, filed on January 21, 2003. It is my understanding that the earliest possible priority date of the '431 patent is January 21, 2003, the filing date of the Japanese priority application. I further understand that, according to the USPTO records, the '431 patent is currently assigned to Senju Pharmaceutical Co., Ltd. ("Senju," "the patentee," or "the patent owner").

4. Claim 1 of the '431 patent is reproduced below.

> 1. An aqueous liquid preparation ***consisting essentially of*** the following two components, wherein the first component is ***2-amino-3-(4-bromobenzoyl)-phenylaceticacid*** or a pharmacologically acceptable salt thereof or a hydrate thereof, wherein the hydrate is at least one selected from a 1/2 hydrate, 1 hydrate, and 3/2 hydrate and the second component is ***tyloxapol***, wherein said liquid preparation is formulated for ophthalmic administration, and wherein when a quaternary ammonium compound is included in said liquid preparation, the quaternary ammonium compound is benzalkonium chloride.

(EX1001, 11:66-12:9) (emphasis added).

5. Claims 2-17 depend, either directly or indirectly, from claim 1 and further recite certain salts of bromfenac, concentrations of tyloxapol and/or bromfenac or its sodium salt, the pH of the preparations, and additional additives. (EX1001, 12:10-13:14).

6. Claim 18 of the ’431 patent is reproduced below.

> 18. An aqueous liquid preparation consisting essentially of:
>
> (a) 2-amino-3-(4-bromobenzoyl)phenylacetic acid or a pharmacologically acceptable salt thereof or a hydrate

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.