

Filed: February 20, 2015

Filed on behalf of:

**Mylan Pharmaceuticals Inc.**

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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**MYLAN PHARMACEUTICALS INC.,**  
Petitioner

v.

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

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Case No. IPR2015-00268  
Patent 6,335,031

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**PETITIONER'S MOTION TO CORRECT EXHIBITS**

Petitioner Mylan Pharmaceuticals Inc. (“Mylan”) respectfully moves the Board for leave to submit corrected Exhibits 1007, 1010, 1011, 1019, and 1020, and a Corrected Exhibit List, as set forth below.

### **BACKGROUND**

Pending before the Board are Mylan’s Petition for *Inter Partes* Review (Paper 1), and Motion for Joinder (Paper 3), both filed on November 13, 2014. Mylan requested to join IPR2014-00550, an IPR filed by Noven Pharmaceuticals, Inc. (“Noven”) on April 2, 2014, and instituted by the Board on October 14, 2014. Mylan’s Petition challenges the same claims of U.S. Patent No. 6,316,031, and is based on the same instituted grounds, and the same combinations of prior art considered by the Board in instituting trial in the Noven IPR. Patent Owners filed their Preliminary Response in IPR2014-00550 on February 18, 2015.

On December 31, 2014, Noven filed a Petitioner’s Motion to Correct Petition and Exhibits (IPR2014-00550, Paper 21), to correct clerical and typographical errors in the Petition and the exhibits. Noven’s motion states that it obtained authorization from the Board to file its motion and that Patent Owners did not oppose the motion. (IPR2014-00550, Paper 21 at 2-3.)

Mylan requests leave to submit the same corrected exhibits submitted by Noven: Exhibits 1007, 1010, 1011, 1019, and 1020. In Noven’s motion, it also requested authorization to correct errors in the Exhibit List of the Petition; Noven

never submitted a corrected Petition nor did Noven submit a corrected Exhibit List. Later, on January 20, 2015, Noven submitted an Exhibit List reflecting the requested corrections in a filing unrelated to its motion. Thus, Mylan also submits herewith a Corrected Exhibit List, rather than submitting the entire Petition.

Mylan has provided the corrected exhibits and the Corrected Exhibit List to Patent Owners, and in a communication dated February 19, 2015, Patent Owners stated that they do not oppose a motion to correct the errors. Mylan sought Board authorization to file this unopposed motion, which was granted in an email from the Board on February 20, 2015.

### **CORRECTED DOCUMENTS**

By this Motion, Mylan seeks to correct the following clerical and typographical errors:

#### **Exhibit List**

In IPR2014-00550, Noven requested permission to correct errors in the Exhibit List of its Petition. Mylan seeks to correct these same errors and does so by submitting a corrected Exhibit List as a separately filed paper. The following corrections have been made in Mylan's Corrected Exhibit List:

(1) The Petition Exhibit List (page v) incorrectly refers to Ex. 1007 as "Carey & Sundberg, *ADVANCED ORGANIC CHEMISTRY*, 2nd ed. Part A: Structure and Mechanism, Plenum Press, New York, 1984, pp. 652." The correct

citation is “Carey & Sundberg, *Advanced Organic Chemistry, Part A: Structure and Mechanism*, 3rd Edition (Plenum Press, NY), pp. 651-727 (1990).”

(2) The Petition Exhibit List (page vi) incorrectly refers to Ex. 1017 as “Ho- Leung Fung, Chapter 7 – Chemical Kinetics and Drug Stability in *MODERN PHARMACEUTICS* (G.S. Banker and C.T. Rhodes, eds.), Marcel Dekker, NY (1978), pp. 227-62.” The correct citation is “Ho-Leung Fung, Chapter 7 – Chemical Kinetics and Drug Stability in *MODERN PHARMACEUTICS* (G.S. Banker and C.T. Rhodes, eds.), Marcel Dekker, NY (1979), pp. 227-62.”

(3) The Petition Exhibit List page vi incorrectly refers to Ex. 1021 as “Linnell, R.H., The Oxidation of Nicotine. I. Kinetics of the Liquid Phase Reaction Near Room Temperature. *Tobacco Science*, Vol. 4, pp. 89–90 (1960).” The correct citation is “Linnell, R.H., The Oxidation of Nicotine. I. Kinetics of the Liquid Phase Reaction Near Room Temperature. *Tobacco Science*, Vol. 4, pp. 89–91 (1960).”

### **Exhibit 1010**

To correct the following clerical error in paragraph 26 of Exhibit 1010 (Declaration of Agis Kydonieus, Ph.D), Mylan provides Corrected Exhibit 1010, which now includes a Supplemental Declaration of Agis Kydonieus, Ph.D. dated November 11, 2014, appended to the original Exhibit 1010, identifying the following correction:

Page 15, paragraph 26: change “(Ex. 1012 at 1; Ex. 1014 at 3.)” to “(Ex. 1012 at 1; Ex. 1013 at 3.)”

*See* Corrected Exhibit 1010 at 48-49.

### **Exhibit 1011**

To correct the following clerical errors in Exhibit 1011 paragraphs 9, 14, 31, 47, and 48 of Exhibit 1011 (Declaration of Christian Schöneich, Ph.D.), Mylan provides Corrected Exhibit 1011, which now includes a Supplemental Declaration of Christian Schöneich, Ph.D. dated November 11, 2014, appended to the original Exhibit 1011, identifying the following corrections:

(1) On pages 4 (paragraph 9) and 13-14 (paragraph 31), Ex. 1007 is incorrectly referred to as “Carey & Sundberg, *ADVANCED ORGANIC CHEMISTRY*, 2nd ed. Part A: Structure and Mechanism, Plenum Press, New York, 1984, pp. 652.” The correct language is “Carey & Sundberg, *Advanced Organic Chemistry, Part A: Structure and Mechanism, 3rd Edition* (Plenum Press, NY), pp. 651-727 (1990).”

(2) On pages 5 (paragraph 9) and 19 (paragraph 48), Ex. 1021 is incorrectly referred to as “Linnell, R.H., *The Oxidation of Nicotine. I. Kinetics of the Liquid Phase Reaction Near Room Temperature*. *Tobacco Science*, Vol. 4, pp. 89–90 (1960).” The correct citation is “Linnell, R.H., *The Oxidation of Nicotine. I. Kinetics of the Liquid Phase Reaction Near Room Temperature*. *Tobacco Science*,

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