

Filed on behalf of Petitioner COALITION FOR AFFORDABLE DRUGS II  
LLC

By: Jeffrey D. Blake, Esq.  
MERCHANT & GOULD P.C.  
191 Peachtree Street N.E., Suite 4300  
Atlanta, GA 30303  
jblake@merchantgould.com  
Main Telephone: (404) 954-5100  
Main Facsimile: (404) 954-5099

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

COALITION FOR AFFORDABLE DRUGS II LLC  
Petitioner

v.

NPS PHARMACEUTICALS, INC.  
Patent Owner

---

Case No. To Be Assigned  
Patent No. 7,056,886

---

**PETITION FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 7,056,886  
(CLAIMS 46-52 and 61-75) UNDER 35 U.S.C. §§ 311-319 and 37 C.F.R. §  
42.100 *et seq.***

## TABLE OF CONTENTS

I.	INTRODUCTION .....	1
II.	MANDATORY NOTICES PURSUANT TO 37 C.F.R. § 42.8 .....	3
	A. Real Party-In-Interest .....	3
	B. Related Matters.....	5
	C. Lead and Backup Counsel.....	5
	D. Service Information.....	6
III.	PAYMENT OF FEES .....	6
IV.	REQUIREMENTS UNDER 37 C.F.R. § 42.104.....	7
	A. Grounds for Standing .....	7
	B. Identification of Challenge and Precise Relief Requested.....	7
	1. Claims for Which <i>Inter Partes</i> Review is Requested.....	7
	2. Statutory Ground on Which the Challenge is Based .....	8
	3. Evidence Relief Upon to Support the Challenge .....	9
	4. How the Challenge Claims Are to be Construed.....	9
V.	SUMMARY OF THE '886 PATENT.....	11
	A. Lineage of the '886 patent .....	11
	B. Litigation Relating to the '886 patent.....	12
	C. Examination of the '886 patent.....	12
	D. Overview of the Cited Prior Art and the State of the Art .....	16

VI.	PETITIONER HAS A REASONABLE LIKELIHOOD OF PREVAILING .....	18
A.	Each Reference Relied on for Grounds 1-4 Is Prior Art.....	20
1.	Ground 1: Claims 46-50, 52, and 69-75 are obvious in view of Drucker '379 (Ex. 1029) and further in view of Kornfelt (Ex. 1027), and Osterberg (Ex. 1030) .....	20
2.	Ground 2: Claims 61-67 are obvious in view of Drucker '600 (Ex. 1028) and further in view of Kornfelt (Ex. 1027), Osterberg (Ex. 1030), and Holthuis (Ex. 1005).....	20
3.	Ground 3: Claims 51 and 75 are obvious in view of Drucker '379 and further in view of Kornfelt, Osterberg, and Munroe .....	21
4.	Ground 4: Claim 68 is obvious in view of Drucker '600 and further in view of Kornfelt, Osterberg, Holthuis, and Munroe. ....	21
B.	A Person of Ordinary Skill in the Art .....	21
C.	Claims 46-52 and 61-75 are Obvious.....	22
1.	Grounds 1 and 3: All of the limitations of Claims 46-52, and 69-75 are disclosed in the combination of the cited references .....	22
2.	Grounds 2 and 4: The limitations of Claims 61-68 directed to a Kit are disclosed in the combination of the prior art references .....	37
D.	There is a Reason to Combine the Cited References .....	49
E.	There is a Reasonable Expectation of Success .....	52
F.	There is no Evidence of Secondary Considerations.....	55
VII.	CONCLUSION.....	57

## TABLE OF AUTHORITIES

<b><u>Cases</u></b>	<b><u>Page(s)</u></b>
<i>Galderma Labs., L.P. v. Tolmar, Inc.</i> , 737 F.3d 731 (Fed. Cir. 2013) .....	56
<i>Graham v. John Deere Co.</i> , 383 U.S. 1, 17-18 (1966) .....	18, 19
<i>KSR Int’l Co. v. Teleflex, Inc.</i> , 550 U.S. 398 (2007) .....	19, 49
<i>Merck &amp; Co. v. Teva Pharms. USA, Inc.</i> , 395 F.3d 1364, (Fed. Cir. 2005) .....	18
<i>Par Pharm., Inc. v. TWI Pharms., Inc.</i> , 773 F.3d. 1186 (Fed. Cir. 2014) .....	54
<i>Pfizer, Inc. v. Apotex, Inc.</i> , 480 F.3d 1348 (Fed. Cir. 2007) .....	49, 55, 56
 <b><u>Statutes</u></b>	
35 U.S.C. § 102 (b) .....	9, 20, 21
35 U.S.C. § 103(a) .....	8, 18, 19
35 U.S.C. § 112 .....	12, 14
35 U.S.C. §§ 311-319 .....	
35 U.S.C. § 318(a) .....	7
 <b><u>Other Authorities</u></b>	
37 C.F.R. § 42.100 .....	9

37 C.F.R. § 42.6(c) .....	19
37 C.F.R. § 42.8(b)(1) .....	3
37 C.F.R. § 42.8(b)(2) .....	5
37 C.F.R. § 42.10(b) .....	6
37 C.F.R. § 42.15(a)(1-4) .....	6
37 C.F.R. § 42.15(a)(3)) .....	6
37 C.F.R. § 42.15(a)(4)) .....	6
37 C.F.R. § 42.102(a)(2).....	7
37 C.F.R. § 42.104(a) .....	7
37 C.F.R. § 42.104(b) .....	7

# 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.