

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COALITION FOR AFFORDABLE DRUGS IV LLC

Petitioner

v.

PHARMACYCLICS, INC.

Patent Owner

Case No. IPR2015-01076

Patent No. 8,754,090

DECLARATION OF JEFFREY D. BLAKE

In support of the Motion to Correct Petition, I, Jeffrey D. Blake, do declare and state as follows:

1. I am an attorney and partner at the law firm of Merchant & Gould, PC in the Atlanta, Georgia office.

2. I have responsibility for the *Inter Partes* Review of U.S. Patent No. 8,754,090 (IPR2015-01076) for Petitioner Coalition for Affordable Drugs IV LLC. I supervised and worked on preparation of the petition requesting *Inter Partes* Review of U.S. Patent No. 8,754,090 (“Petition”), as well as the supporting Exhibits submitted with it.

3. In analyzing U.S. 8,754,090 (“the ’090 patent”) and preparing the Petition, Merchant & Gould created a folder entitled “Searches and References” in its internal document management system for saving prior art related to the ’090 patent. The “Searches and References” folder was created in the network directory specifically reserved for this matter, which is client matter number 04852.0005USWX. All related prior art was added to this folder, including an April 13, 2009 Pharmacyclics Press Release (“April 2009 Press Release”) and a December 9, 2009 Pharmacyclics Press Release (“December 2009 Press Release”).

4. The Petition cites, relies upon, discusses and quotes the April 2009 Press Release. The Declaration of Dr. Djordje Atanackovic submitted in support of

the Petition also cites, relies upon, discusses and quotes the April 2009 Press Release. Further, the Appendix of Exhibits submitted with the Petition identifies the April 2009 Press Release as Ex. 1004.

5. During the days leading up to the filing of the Petition, Tchao Thao, a member of our Merchant & Gould team, was directed to compile electronic copies of the Exhibits to the Petition from the “Searches and References” folder created in Merchant’s network directory. The electronic copies of the Exhibits to the Petition were to be labeled according to their exhibit number listed in the Appendix of Exhibits.

6. Mr. Thao compiled and labeled the exhibits using the drafted Appendix of Exhibits as a guide. He accidentally pulled the December 2009 Press Release from the “Searches and References” folder and saved it as the exhibit that became Exhibit 1004 to the Petition. The April 2009 Press Release (which is very similar in layout and style to the December 2009 Press Release) should have been pulled and filed as Exhibit 1004.

7. Prior to filing, I reviewed the Petition, Appendix of Exhibits and Exhibits before instructing case assistant Kristin Drieman to upload them to the Patent Review Processing System. I reviewed the file labeled “Ex. 1004-2009 Press Release” to confirm that it contained what appeared to be the April 2009 Press Release, but did not notice that Ex. 1004 was instead the incorrect December

2009 Press Release. I was not aware that the incorrect December 2009 Press Release had been filed until I read Patent Owner's Preliminary Response.

8. On August 10, 2015, Shane Brunner, an attorney on the Merchant & Gould team, contacted counsel for Patent Owner to advise counsel that Petitioner intended to move the Board for leave to correct Exhibit 1004 and to ask whether Patent Owner would oppose that motion. Petitioner proposed that, as part of its motion, Petitioner would be willing to allow Patent Owner additional preliminary response briefing to address the April 2009 Press Release. On August 12, 2015, counsel for Patent Owner informed us that Patent Owner would oppose a motion to correct. On August 12, 2015, I contacted the Board requesting a telephone conference to seek leave to file a motion to correct Exhibit 1004.

9. I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true. I understand that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001.

Dated: August 19, 2015


Jeffrey D. Blake