

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INNOPHARMA LICENSING, INC., INNOPHARMA LICENSING LLC,
INNOPHARMA INC., INNOPHARMA LLC,
MYLAN PHARMACEUTICALS INC., and MYLAN INC.
Petitioner,

v.

SENJU PHARMACEUTICAL CO., LTD., BAUSCH & LOMB, INC., and
BAUSCH & LOMB PHARMA HOLDINGS CORP.
Patent Owner.

U.S. Patent No. 8,669,290 to Sawa *et al*
Issue Date: March 11, 2014

Title: Aqueous Liquid Preparation Containing 2-Amino-3-(4-
bromobenzoyl)phenylacetic acid

Inter Partes Review No: IPR2015-00902

DECLARATION OF PAUL A. LASKAR, PH.D.

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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 Petitioner 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 \$250 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. 8,669,290 (“the ’290 patent”) (EX1001), which issued on March 11, 2014, from U.S. Application No. 13/687,242 (“the ’242 application”), naming Shirou Sawa and Shuhei Fujita as the inventors. The ’242 application is a division of application No. 13/353,653, now U.S. Pat. No. 8,497,304, which is a division of application No. 10/525,006 (“the ’006 application”), which was 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 ’290 patent is January 21, 2003, the filing date of the Japanese priority application. I further understand that, according to the USPTO records, the ’290 patent is currently assigned to Senju Pharmaceutical Co., Ltd. (“Senju,” “the patentee,” or “the patent owner”). I further understand that the ’290

Declaration of Dr. Paul A. Laskar (EX1003)

patent is currently subject to *inter partes* review. *Metrics, Inc. v. Senju Pharmaceuticals Co., Ltd.*, Case No. IPR2014-01043. I understand that Petitioner seeks to become a party to proceedings in IPR2014-01043. Because IPR of the '290 patent has already been instituted, I have reviewed the materials submitted with the petition filed in that proceeding, including the petition itself (Second Corrected Petition, IPR2014-01043, Paper 9), the Second Corrected Declaration of Dr. Uday B. Kompella (IPR2014-01043, EX1003), the Board's Decision Instituting Inter Partes Review (IPR2014-01043, Paper 19), and the prior art cited in each. I note that I agree with the analysis and opinions set forth by the petitioner's expert, Dr. Kompella, in the declaration that was submitted in the Metrics IPR proceeding and share many of those same opinions below. Because my independent analysis of the claims and prior art led to the same conclusions as the expert in the Metrics IPR, I have incorporated many of his opinions and characterizations below as my own. I understand that in its Decision Instituting Inter Partes Review, the Board concluded that Petitioner Metrics, Inc. demonstrated a reasonable likelihood of prevailing on its assertion that claims 1-30 of the '290 patent are unpatentable. Specifically, the Board instituted review based on U.S. Patent No. 4,910,225 to Ogawa ("Ogawa") (EX1004) and U.S. Patent No. 6,107,343 to Sallmann *et al.* ("Sallmann") (EX1009). Therefore, because Petitioner is seeking to join the instituted review of the '290 patent, the opinions

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