

Arnold B. Calmann (abc@saiber.com)  
Jeffrey Soos (js@saiber.com)  
Katherine A. Escanlar (kae@saiber.com)

**SAIBER LLC**

One Gateway Center, 10<sup>th</sup> Floor  
Newark, New Jersey 07102  
Telephone: (973) 662-3333  
Facsimile: (973) 286-2465

Deepro R. Mukerjee (deepro.mukerjee@alston.com)  
Lance A. Soderstrom (lance.soderstrom@alston.com)

**ALSTON & BIRD LLP**

90 Park Avenue  
New York, NY 10016  
(212) 210-9400

*Attorneys for Defendants InnoPharma Licensing, Inc.,  
InnoPharma Licensing LLC, InnoPharma, Inc.,  
and InnoPharma, LLC*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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

Plaintiffs, )

v. )

INNOPHARMA LICENSING INC., )  
INNOPHARMA LICENSING LLC, )  
INNOPHARMA INC., and )  
INNOPHARMA LLC, )

Defendants. )

Civil Action No. 1:14-cv-6893-JBS-KMW

**DEFENDANTS INNOPHARMA LICENSING INC., INNOPHARMA  
LICENSING LLC, INNOPHARMA INC., AND INNOPHARMA LLC's  
INITIAL INVALIDITY CONTENTIONS PURSUANT TO L. PAT. R. 3.6(c)**

TABLE OF CONTENTS

I.	Introductory Statement.....	1
II.	General Information.....	7
	A. Claim Construction.....	7
	B. Level of Ordinary Skill in the Art.....	8
	C. Ongoing Discovery.....	8
III.	L. Pat. R. 3.3(a) - Identification of the Prior Art.....	9
	A. U.S. Patent No. 4,910,225 to Ogawa et al. ....	10
	B. U.S. Patent No. 6,107,343 to Sallmann et al.....	11
	C. U.S. Patent No. 6,274,609 to Yasueda et al.....	12
	D. Hara, Yoshiyuki, Clinics & Drug Therapy 2000, 19:1014-1015.....	14
	E. WO 02/13804 to Kapin et al. ....	15
	F. U.S. Patent No. 5,414,011 to Fu et al. ....	16
	G. AU-B-22042/88 to Fu et al. ....	17
	H. Regev and Zana, Journal of Colloid and Interface Science (210) 8–17 (1999).....	19
	I. Yuan et al., J. Phys. Chem. B 2001, 105, 4611-4615.....	20
	J. U.S. Patent No. 2,454,541 to Bock et al. ....	21
IV.	L. Pat. R. 3.3(b) – Anticipation and Obviousness. ....	21
	A. U.S. Patent No. 8,129,431 (The '431 patent).....	21
	1. Independent Claim 1 of the '431 patent.....	21
	a. Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '343 patent, alone or in combination with the '609 patent.....	21
	b. Obvious under 35 U.S.C. § 103 over the '343 patent in view of the '225 patent, alone or in combination with Hara .....	28

NON-CONFIDENTIAL REDACTED VERSION

- c. Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '804 Publication, the '011 patent, and Regev .....31
- d. Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '804 Publication, the '011 patent, Yuan, and the '541 patent.....36
- 2. Independent Claim 18 of the '431 patent..... 38
  - a. Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '343 patent, alone or in combination with the '609 patent, or alternatively, over the '343 patent in view of the '225 patent, alone or in combination with Hara .....38
  - b. Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '804 Publication, the '011 patent, and Regev, or alternatively, the '225 patent in view of the '804 Publication, the '011 patent, Yuan, and the '541 patent.....41
- 3. Dependent Claims 2 and 19 of the '431 patent..... 42
- 4. Dependent Claims 3 and 4 of the '431 patent..... 43
- 5. Dependent Claims 6 and 20 of the '431 patent..... 48
- 6. Dependent Claims 7 and 8 of the '431 patent..... 52
- 7. Dependent Claims 9 and 10 of the '431 patent..... 54
- B. U.S. Patent No. 8,669,290 (The '290 patent)..... 55
  - 1. Independent Claims 1 and 14 of the '290 patent ..... 56
    - a. Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '343 patent, or alternatively, over the '225 patent in view of the '343 patent and the '609 patent.....56
    - b. Obvious under 35 U.S.C. § 103 over the '343 patent in view of the '225 patent, or alternatively, over the '343 patent in view of the '225 patent and Hara .....62
    - c. Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '804 Publication, the '011 patent, and Regev .....65
    - d. Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '804 Publication, the '011 patent, Yuan, and the '541 patent.....68
  - 2. Independent Claim 8 of the '290 patent..... 71

..

NON-CONFIDENTIAL REDACTED VERSION

a.	Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '343 patent, or alternatively, over the '225 patent in view of the '343 patent and the '609 patent, or alternatively, over the '343 patent in view of the '225 patent, or alternatively, over the '343 patent in view of the '225 patent and Hara.....	71
b.	Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '804 Publication, the '011 patent, and Regev or, alternatively, in view of the '804 Publication, the '011 patent, Yuan, and the '541 patent .....	72
3.	Dependent Claims 10, 20 and 22 of the '290 patent.....	74
4.	Dependent Claims 2, 9, 15 and 21 of the '290 patent.....	75
5.	Dependent Claims 3 and 16 of the '290 patent.....	77
6.	Dependent Claims 4, 11, 17 and 23 of the '290 patent.....	77
7.	Dependent Claims 6, 12, 18 and 24 of the '290 patent.....	81
8.	Dependent Claims 7, 13, 19, and 25 of the '290 patent.....	82
9.	Dependent Claims 26-30 of the '290 patent .....	87
C.	U.S. Patent No. 8,754,131 (The '131 patent).....	89
1.	Independent Claims 1, 7, and 13 of the '131 patent .....	89
a.	Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '343 patent, or alternatively, over the '225 patent in view of the '343 patent and the '609 patent.....	89
b.	Obvious under 35 U.S.C. § 103 over the '343 patent in view of the '225 patent, or alternatively, over the '343 patent in view of the '225 patent and Hara .....	97
c.	Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '804 Publication, the '011 patent, and Regev .....	100
d.	Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '804 Publication, the '011 patent, Yuan, and the '541 patent.....	104
2.	Dependent Claims 2, 8, and 14 of the '131 patent.....	107
3.	Dependent Claims 3 and 15 of the '131 patent.....	108

...

NON-CONFIDENTIAL REDACTED VERSION

4. Dependent Claim 4 of the '131 patent ..... 109

5. Dependent Claims 5, 11, and 17 of the '131 patent..... 111

6. Dependent Claims 6, 12, 18, and 24 of the '131 patent..... 113

7. Dependent Claims 9, 19 and 21 of the '131 patent..... 121

8. Dependent Claims 10, 16, and 22 of the '131 patent..... 123

9. Dependent Claim 20 of the '131 patent ..... 127

10. Dependent Claim 23 of the '131 patent ..... 128

11. Dependent Claims 25-29 of the '131 patent ..... 129

12. Dependent Claim 30 of the '131 patent ..... 132

D. U.S. Patent No. 8,871,813 (The '813 patent)..... 133

1. Independent Claims 1 and 13 of the '813 patent ..... 134

a. Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '343 patent, or alternatively, over the '225 patent in view of the '343 patent and the '609 patent.....134

b. Obvious under 35 U.S.C. § 103 over the '343 patent in view of the '225 patent, or alternatively, over the '343 patent in view of the '225 patent and Hara .....141

c. Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '804 Publication, the '011 patent, and Regev .....144

d. Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '804 Publication, the '011 patent, Yuan, and the '541 patent.....147

2. Independent Claim 7 of the '813 patent..... 150

a. Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '343 patent, or alternatively, over the '225 patent in view of the '343 patent and the '609 patent, or alternatively, over the '343 patent in view of the '225 patent, or alternatively, over the '343 patent in view of the '225 patent and Hara .....150

b. Obvious under 35 U.S.C. § 103 over the '225 patent in view of the '804 Publication, the '011 patent, and Regev or,

# 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.