

THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LUPIN LTD. and LUPIN PHARMACEUTICALS INC.,

Petitioners,

v.

SENJU PHARMACEUTICAL CO., LTD.,

Patent Owner

Case IPR2015-01105

Patent 8,871,813 B2

DECLARATION OF JOHN C. JAROSZ

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I, John C. Jarosz, do hereby declare, under penalty of perjury, as follows.

I. INTRODUCTION

1. I am over the age of eighteen (18) and otherwise competent to make this declaration.

A. Assignment

2. I have been retained as an expert on behalf of Senju Pharmaceutical Co. Ltd. (“Senju” or “Patent Owner”) as well as Bausch & Lomb Incorporated and Bausch & Lomb Pharma Holdings Corp. (collectively, “Bausch & Lomb”) in connection with the above captioned *inter partes* review (“IPR”) proceeding before the United States Patent and Trademark Office Patent Trial and Appeal Board (“PTAB”).

3. I understand that the PTAB has granted the petition of Lupin Ltd. and Lupin Pharmaceuticals, Inc. (collectively, “Lupin” or “Petitioners”) to institute an IPR regarding claims 1-27 of U.S. Patent No. 8,871,813 (the “813 patent”) on obviousness grounds. That IPR was assigned Case No. IPR2015-01105.

4. I understand that the PTAB has granted the petitions of the Petitioners to institute separate IPRs regarding claims 1-30 of U.S. Patent No. 8,754,131 (the “131 patent”), claims 1-30 of U.S. Patent No. 8,669,290 (the “290 patent”), and claims 1-30 of U.S. Patent No. 8,927,606 (the “606 patent”)

on obviousness grounds. Those IPRs were assigned Case Nos. IPR2015-01097, IPR2015-01099, and IPR2015-01100, respectively.

5. I understand that Senju is the assignee of the '813 patent and that Shirou Sawa and Shuhei Fujita are the named inventors of the patent.
6. I understand that the '813 patent describes and claims compositions of the active ingredient bromfenac sodium ("bromfenac") and the surfactant tyloxapol.¹ I further understand that Prolensa® embodies compositions claimed in the '813 patent.
7. I have been asked by Counsel for Patent Owner to assess whether Prolensa® has been a marketplace success, and whether such success is attributable to the inventions claimed in the '813 patent.

B. Qualifications

8. I am a Managing Principal of Analysis Group, Inc. ("Analysis Group") and Director of the firm's Washington, DC office. Analysis Group is an economic, financial, and strategy consulting firm with offices in Beijing, China; Boston, MA; Chicago, IL; Dallas, TX; Denver, CO; Los Angeles, CA; Menlo Park, CA; Montreal, Quebec; New York, NY; San Francisco, CA; and Washington, DC. We provide research and analysis in a

¹ I understand that a surfactant is a substance that, when added to a liquid, reduces the surface tension of that liquid.

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