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SCOTT BENNETT
Managing Partner, Prior Art Documentation Services LLC

29 April 2015

DECLARATION

I, Scott Bennett, am a retired academic librarian working at 711 South Race Street, Urbana, IL, 61801-4132. I was employed as a librarian as follows:

- University Librarian, **Yale University**, New Haven, CT., 1994-2001
- Director, The Milton S. Eisenhower Library, **The Johns Hopkins University**, Baltimore, MD, 1989-1994
- Assistant University Librarian for Collection Management, **Northwestern University**, Evanston, IL, 1981-1989
- Instructor, Assistant and Associate Professor of Library Administration, **University of Illinois at Urbana-Champaign**, Urbana, IL, 1974-1981

During the course of this employment and through graduate study of library science (University of Illinois, M.S., 1976), I have become well informed about the operations of academic libraries.

This Declaration relates to **ITEM 1: "A randomised, placebo-controlled phase II trial of a novel oral single-agent fumarate therapy, BG00012, in patients with relapsing-remitting multiple sclerosis,"** by **L. Kappos, D. Miller, R. Gold, E. Havrodova, C. Polman, V. Limmroth, G. O'Neill, and R. Conaghan.**

Initial public availability

Item 1 first became available to researchers in a poster session at the 15th Meeting of the European Neurological Society (ENS), in Vienna, on 18-22 June 2005. This was one of a series of annual ENS meetings (see http://www.ensinfo.org/congress_past/index.html) that generally attract about three thousand participants from scores of countries and at which a great number of papers and posters are presented.

Attachment 1 shows the program prepared for the 2005 meeting, with the notation "Last update 10.06.2005." *Attachment 2* is Item 1 as it appeared in this program, indicating the poster was presented on 22 June 2005. *Attachments 1-2* derive from the online, fully searchable Web site for the 2005 meeting. This online program was presumably available at least to those attending the meeting no later than 10 June 2005.

Item 1 may be understood to have entered the public realm of discourse as early as 10 June 2005 and no later than 22 June 2005.

Formal publication

Item 1 was formally published in the *Journal of Neurology*, 22, Supplement 2 (June 2005), p. II/148. This journal is published by Springer for the European Neurological Society, which convened the Vienna meeting.

Attachment 3 is a copy of the title page of Supplement 2 held at the University of Maryland Health Sciences and Human Services Library, Baltimore, while *Attachment 4* is a copy of Item 1 itself. *Attachment 5* is a copy of the Supplement Index, showing the entry for Item 1 (P 574) under the first author's name (L. Kappos).

Attachment 3 shows a date stamp indicating this publication was received by the University of Maryland Health Sciences and Human Services Library on 6 July 2005. Periodical titles, such as the *Journal of Neurology*, would normally be cataloged by libraries years or decades before a given issue was added to the collection. When individual issues were received by a library, they would be checked in (often with a date stamp), added to library holdings records, and made available for use by readers as soon after their arrival as possible—normally within a few days or (at most) a few weeks. One may reasonably and conservatively assume the June 2005 Supplement to the *Journal of Neurology*, where Item 1 was published, was available to readers at the University of Maryland by August 2005.

Attachment 6 is a copy of the University of Maryland catalog record for the *Journal of Neurology*. *Attachment 7* is a copy of the OCLC WorldCat record for this title, which shows that the *Journal of Neurology* is held by almost 600 libraries world-wide.

Even wider access to Item 1 was provided by the Thomson Reuters online indexing service, the Web of Science (see *Attachment 8*) and by the online SpringerLink entry that provides a PDF download for Poster Session 3, which contains Item 1 (*Attachment 9*). There is no direct evidence of when the Web of Science or the SpringerLink online entries for Item 1 became available to researchers. Both Springer and the Web of Science had a business interest in providing the promptest possible indexing service for material presented at important, widely attended annual meetings of the European Neurological Society. One may reasonably assume broad online indexing for Item 1 was available by September 2005.

Summary

The available evidence—ENS meeting program and poster session dates, formal publication date, library processing date stamp on the relevant issue of the periodical, and online indexing—conclusively indicates that Item 1 entered the realm of public discourse by no later than 22 June 2005 and was, through normal publication and indexing channels, available to investigators exercising normal care to understand scholarship relevant to Item 1 by no later than September 2005.


In making this Declaration, I have been retained on behalf of Neifeld IP Law, PC. I understand that this Declaration may be filed by Neifeld IP Law, PC in a contested case before the Patent Trial and Appeal Board of the United States Patent Office, in which Neifeld IP Law, PC is challenging the patentability of patent claims. I am being paid my company's standard hourly rate, and no part of my compensation is dependent on the conclusions that I reach or the outcome of the case.

I reserve the right to supplement my opinion in the future to respond to any arguments that the Patent Owner raises and to take into account new information as it becomes available.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with

the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Dated 29 April, 2015.



Scott Bennett
Managing Partner
Prior Art Documentation Services LLC

Attachments

The following 9 attachments are true and accurate representations of online catalog and bibliographic records, and of library materials. Attachments 1-2 and 6-9 were prepared with Microsoft Snipping Tool software from Internet sites (relevant URLs are provided for each attachment) and incorporated into Word documents for ease of use in this Declaration. These online records were retrieved on 24-25 April 2015. Attachments 3-5 are digital scans made at the University of Maryland Health Sciences and Human Services Library, Baltimore, on 28 April 2005 and transmitted as PDFs.

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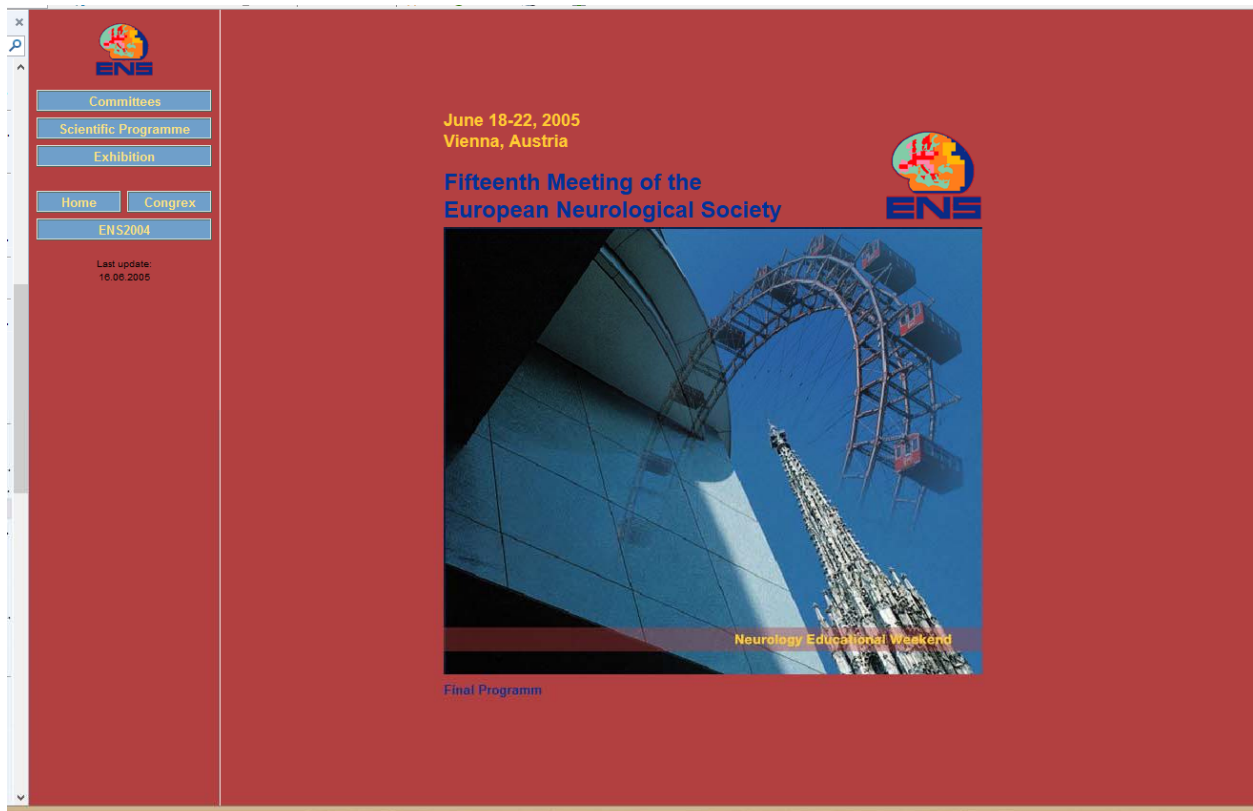
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URL: <http://www.congrex.ch/2005/ens2005/>



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