

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.,
Petitioner,

v.

ASTRAZENECA AB,
Patent Owner.

Case IPR2015-01340
Patent RE44,186 E

Before MICHAEL P. TIERNEY, RAMA G. ELLURU, and
CHRISTOPHER G. PAULRAJ, *Administrative Patent Judges*.

ELLURU, *Administrative Patent Judge*.

DECISION
Granting Petitioner's Request for Rehearing
37 C.F.R. § 42.71

I. INTRODUCTION

Mylan Pharmaceuticals Inc. (“Petitioner”) requests rehearing (Paper 13; “Req. Reh’g”) of the Board’s Decision on Institution (Paper 12, 14; “Dec.”) denying *inter partes* review of claims 1, 2, 4, 6–22, 25–30, 32–37, and 39–42 (“the challenged claims”) of U.S. Patent No. RE44,186 E (Ex. 1001; “the ’186 patent”). In its Petition (Paper 3; “Pet.”), Petitioner alleged that the challenged claims are unpatentable based on the following grounds. Pet. 2, 3, 22, 46, 50, 53.

References	Basis	Claims challenged
Ashworth I, Villhauer, Raag and, Hanessian	§ 103(a)	1, 2, 4, 6–11, 25–28, 32–35, 39, and 40
Ashworth I, Villhauer, Raag, Hanessian, Bachovchin, and GLUCOPHAGE Label	§ 103(a)	12–16, 29, 30, 36, 37, 41, and 42
Ashworth I, Villhauer, Raag, Hanessian, Bachovchin and, XENICAL Label	§ 103(a)	12, 17, 18, and 22
Ashworth I, Villhauer, Raag, Hanessian, Bachovchin, and MEVACOR Label	§ 103(a)	12, 19, 20, and 21

II. ANALYSIS

When rehearing a decision on institution, the Board reviews the decision for an abuse of discretion. 37 C.F.R. § 42.71(c). The applicable standard for a request for rehearing is set forth in 37 C.F.R. § 42.71(d), which provides in relevant part:

A party dissatisfied with a decision may file a single request for rehearing without prior authorization from the Board. The burden of showing a decision should be modified lies with the party challenging the decision. The request must specifically

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identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in a motion, an opposition, or a reply.

We grant Petitioner's request for rehearing and institute an *inter partes* review of claims 1, 2, 4, 6–22, 25–30, 32–37, and 39–42 of the '186 patent for the reasons provided in the concurrently issued Decision on Institution. Paper 16.

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PETITIONER:

Steven Parmelee
Richard Torczon
WILSON SONSINI GOODRICH
sparmelee@wsgr.com
rtorczon@wsgr.com

PATENT OWNER:

Charles Lipsey
David Weingarten
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.
charles.lipsey@finnegan.com
david.weingarten@finnegan.com

Eric Grondahl
MCCARTER & ENGLISH LLP
egrondahl@mccarter.com