

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LUPIN LTD. and LUPIN PHARMACEUTICALS INC.
Petitioners

v.

POZEN, INC.
Patent Owner

Case No. IPR2015-01774
Patent No. 8,852,636

MANDATORY NOTICES
37 C.F.R. § 42.8

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Pursuant to 37 C.F.R. § 42.8, the real parties-in-interest for this proceeding hereby submit the following mandatory notices in response to the Petition for *Inter Partes* Review of U.S. Patent No. 8,852,636 (“the ’636 patent”), case number IPR2015-01774.

REAL PARTY-IN-INTEREST (37 C.F.R. § 42.8(b)(1))

The real parties-in-interest are:

Pozen Inc.;

Horizon Pharma, Inc., a corporation organized and existing under the laws of the State of Delaware having its principal place of business at 520 Lake Cook Road, Suite 520, Deerfield, Illinois, 60015, which is wholly owned by;

Horizon Pharma Finance S.á r.l., an entity organized and existing under the laws of Luxembourg, having its principal place of business at 19 Rue de Bitbourg, Luxembourg, which is wholly owned by;

Horizon Pharma Capital Limited, a corporation organized and existing under the laws of Ireland, having its principal place of business at Connaught House, 1st Floor, 1 Burlington Road, Dublin 4, Ireland, which is wholly owned by;

Horizon Pharma Holdings Limited, a corporation organized and existing under the laws of Ireland, having its principal place of business at Connaught House, 1st Floor, 1 Burlington Road, Dublin 4, Ireland, which is wholly owned by;

Horizon Pharma plc, a corporation organized and existing under the laws of Ireland, having its principal place of business at Connaught House, 1st Floor, 1 Burlington Road, Dublin 4, Ireland; and

Horizon Pharma USA, Inc., a corporation organized and existing under the laws of the State of Delaware having its principal place of business at 520 Lake Cook Road, Suite 520, Deerfield, Illinois, 60015, which is wholly owned by Horizon Pharma, Inc.

Pozen Inc. (“Pozen”) is the licensor and patent owner of the ’636 patent.

Horizon Pharma USA, Inc. (“Horizon”) is the exclusive licensee with the right to enforce and defend the ’636 patent in this IPR proceeding.

Horizon obtained rights to the ’636 patent through an exclusive license agreement between patent owner Pozen and Horizon relating to the ’636 patent (“the License Agreement”), a redacted version of which is submitted with these mandatory notices.¹ *See* Ex. 2001 (redacted version of the “License Agreement”). Under the License Agreement, Pozen granted Horizon an exclusive license in the Field of Use for the duration of the ’636 patent’s term, which includes the right to sublicense, enforce, and defend the ’636 patent. *See* Ex. 2001 at §§ 1.43, 1.44, 7.1

¹ The redacted version of the License Agreement was previously submitted as a public document to the Securities and Exchange Commission by Horizon.

9.6.1, 9.6.2, and 9.10.2, and Schedule 1.43. These rights specifically include the right to defend reexamination proceedings. *See* Ex. 2001 § 9.6.2.

Specifically, the License Agreement defines “Licensed Patents” as:

1.43 “Licensed Patents” means: (a) the Patents set forth on Schedule 1.43, and any substitutions, divisions, continuations, continuations-in-part, reissues, renewals, registrations, confirmations, re-examinations, or extensions of such Patents, (b) any Patents in the Territory Controlled by POZEN or any of its Affiliates as of the Effective Date or during the Term that claim Inventions (including without limitation POZEN’s interest in Joint Inventions), and (c) all other Patents in the Territory Controlled by POZEN or any of its Affiliates as of the Effective Date or during the Term that are necessary or useful for the Development, Manufacture or Commercialization of a Product in the Territory. Notwithstanding anything in this Section 1.43 to the contrary, Licensed Patents shall not include any Patents Controlled by POZEN with Valid Claims that do not cover any Product (e.g., any Patents with Valid Claims solely directed to any product containing acetyl salicylic acid).

Ex. 2001 § 1.43. Schedule 1.43 to the License Agreement identifies U.S. Patent Appl. Nos. 10/158,216 and 11/129,320 as being within the scope of the “Licensed

Patents.” Ex. 2001 Schedule 1.43. The ’636 patent falls within the scope of the “Licensed Patents” as it a Patent explicitly set forth on Schedule 1.43 of the License Agreement.

The License Agreement also provides that Horizon is the exclusive licensee of the “Licensed Technology,” which includes the ’636 patent under the term “Licensed Patents.” Ex. 2001 § 1.44 (“**Licensed Technology**’ means the Licensed Patents and the Licensed Know-How”). The exclusive grant of rights to Horizon for the ’636 patent under the License Agreement is as follows:

7.1 Licensed Technology. Subject to the terms and conditions of this Agreement, POZEN hereby grants to Licensee an exclusive (including with regard to POZEN and its Affiliates), royalty-bearing license, with the right to grant sublicenses as described in Section 7.3 (Sublicenses), under the Licensed Technology to make, use, have made, sell, offer for sale, import and export Products in the Field of Use in the Territory. For the avoidance of doubt, Licensee shall have no license or other right under the Licensed Technology to make, use, have made, sell, offer for sale, import, and export any product containing acetyl salicylic acid (including salts and derivatives thereof).

Ex. 2001 at § 7.1.

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