

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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WOCKHARDT BIO AG  
Petitioner

v.

JAZZ PHARMACEUTICALS, INC.  
Patent Owner

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Case IPR: Unassigned

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**PETITION FOR INTER PARTES REVIEW OF U.S. PATENT NO. 7,668,730  
UNDER 35 U.S.C. § 311–319 and 37 C.F.R. § 42.1–.80, 42.100–.123**

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Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

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of U.S. Patent No. 7,668,730*

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*Petition for Inter Partes Review  
of U.S. Patent No. 7,668,730*

**I. Introduction And Statement Of Relief Requested (37 C.F.R. § 42.22(a))**

On July 28, 2015, the Board instituted *Inter Partes* Review (“IPR”) of claims 1-11 of U.S. Patent No. 7,668,730 (“the ’730 patent”) (Ex. 1001) in IPR2015-00554. In its decision for institution, the Board determined that it is reasonably likely that published materials used in an FDA Advisory Committee Meeting (the “Advisory Committee Art” or “ACA”) would have rendered obvious claims 1-11 of the ’730 patent more than a year before the ’730 patent’s earliest effective filing date. *See* IPR2015-00554, Paper 20 at 30-36.

Wockhardt Bio AG (“Wockhardt”) submits this Petition for IPR (“Petition”) also seeking cancellation of claims 1-11 of the ’730 patent as unpatentable under 35 U.S.C. §103(a) over the Advisory Committee Art. This petition presents the same arguments, based on the same prior art presented in the IPR2015-00554 Petition (IPR2015-00554, Paper 1), and on which the Board instituted IPR in IPR2015-00551, along with a Motion for Joinder to join this Petition with the IPR2015-00551 proceedings. Indeed, this petition is an almost verbatim copy of the petition in IPR2015-00551, but missing the discussion of uninstituted Ground 2 in that case.

For the reasons explained below, and for the reasons the Board instituted IPR in IPR2015-00554, Wockhardt is reasonably likely to prevail on Ground 1 with respect to the challenged claims. Wockhardt requests that this Board institute

IPR and cancel each of claims 1-11 of the '730 patent.

**II. Grounds for standing (37 C.F.R. § 42.104(a))**

Wockhardt certifies that the '730 patent is available for IPR and Wockhardt are not barred or estopped from requesting IPR of any of the challenged claims.

**III. Statement of the precise relief requested and the reasons therefore**

The Office should institute IPR under 35 U.S.C. §§ 311-319 and 37 C.F.R. §§ 42.1-.80 and 42.100-42.123, and cancel claims 1-11—all claims—of the '730 patent as unpatentable under 35 U.S.C. § 103.

**IV. Overview**

**A. Person of ordinary skill in the art (“POSA”)**

A POSA is a hypothetical person who is presumed to be aware of all pertinent art, thinks along conventional wisdom in the art, and is a person of ordinary creativity. A POSA may work as part of a multi-disciplinary team and draw upon not only his or her own skills, but also take advantage of certain specialized skills of others in the team, to solve a given problem. (Ex. 1007, ¶20.) For example, a POSA would hold a Bachelor's or Doctor of Pharmacy degree and a license as a registered pharmacist with 3-5 years of relevant work experience, or a computer science undergraduate degree or equivalent work experience and work experience relating to business applications, for example, including familiarity with drug distribution procedures. Alternatively, a POSA may have a blend of computer science and pharmacy drug distribution knowledge

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