

For the Petitioner

Paper No. ___

Lead counsel: James T. Carmichael, Reg. No. 45,306

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Carmichael IP, PLLC

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COALITION FOR AFFORDABLE DRUGS V LLC;
HAYMAN CREDES MASTER FUND, L.P.;
HAYMAN ORANGE FUND SPC – PORTFOLIO A;
HAYMAN CAPITAL MASTER FUND, L.P.;
HAYMAN CAPITAL MANAGEMENT FUND, L.P.;
HAYMAN OFFSHORE MANAGEMENT, INC.;
HAYMAN INVESTMENTS, LLC;
NXN PARTNERS, LLC;
IP NAVIGATION GROUP, LLC;
J KYLE BASS, and ERICH SPANGENBERG,
Petitioners,

v.

BIOGEN MA INC.,
Patent Owner.

Case IPR2015-01993
Patent 8,399,514 B2

PETITIONER SUBSTITUTE LIST OF PROPOSED MOTIONS

Pursuant to the Scheduling Order of 22 March 2016 (Paper 21), Petitioners submit the following list of proposed motions for which they intend to request authorization during the initial conference call on 19 April 2016. *See e.g.*, 37 C.F.R. §42.21(a); Trial Practice Guide, 77 Fed. Reg. 48756, 48765.

Petitioner Proposed Motion 1 to Exclude Evidence. Pursuant to 37 C.F.R. §42.64, Petitioner moves to exclude the Rule 132 Declarations of Dr. Katherine Dawson (contained at pages 14-35 of Exhibit 1007) and of Dr. Richard A. Rudick (Exhibit 2011), which were submitted during *ex parte* prosecution of application 13/372,426 (which issued as patent 8,399,514) insofar as they are relied upon for secondary considerations of nonobviousness under FRE 401-403. Petitioner also moves to exclude Kappos 2005 poster presentation Exhibit 2005 as presented by Patent Owner because Patent Owner's presentation lacks authentication and contains hearsay under FRE 403, 802, 901 and 902. Petitioner also moves to exclude program extracts Exhibits 2006-2008 and 2013 under FRE 401-403 since Patent Owner has failed to explain why these exhibits are being relied upon in its Preliminary Response.

Objections to the above exhibits were timely filed 5 April 2016 (Paper 23).

Petitioner Proposed Contingent Motion 2 to Cross-Examine Drs. Dawson and/or Rudick. Pursuant to 37 C.F.R. §42.52, Petitioner moves to cross-examine Drs. Dawson and/or Rudick if Patent Owner places the Dawson/Rudick

testimony in evidence as part of its opposition on the merits as a showing of unexpected results.

Petitioner Proposed Motion 3 Opposing Benefit of Provisional

Application 60/888,921. Petitioner moves to deny Patent Owner benefit of the 8 February 2008 filing date of its provisional application 60/888.

Although Petitioner does not presently contemplate filing additional motions, Petitioner reserves the right to seek subsequent authorization for motions consistent with the relevant rules.

Respectfully submitted,

Dated: 15 April 20116

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37 C.F.R. §42.6(e) CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **PETITIONER LIST OF PROPOSED MOTIONS** was served on April 15, 2016, via electronic mail directed to counsel of record for the Patent Owner at the following:

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Patent Owner has agreed to electronic service.

Dated: 15 April 2016

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