

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, L.P.;
HAYMAN OFFSHORE MANAGEMENT, INC.;
HAYMAN INVESTMENTS, LLC;
NXN PARTNERS, LLC;
IP NAVIGATION GROUP, LLC;
J KYLE BASS; and ERICH SPANGENBERG,
Petitioner,

v.

BIOGEN MA INC.,
Patent Owner.

Case: IPR2015-01993
U.S. Patent No. 8,399,514

BIOGEN'S MOTION TO ANTEDATE

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I. Introduction

Petitioner relies on Kappos 2006 (**Ex. 1003A**) for each alleged ground of unpatentability. But Kappos 2006 is not prior art to at least claims 1-16 and 20 of U.S. Patent No. 8,399,514 (“the ’514 patent,” **Ex. 1001**). In particular, Biogen is entitled to its February 8, 2007 priority date. As such, Kappos 2006 is prior art only under 35 U.S.C. § 102(a) because it was published less than one year before this date. Because Dr. Gilmore O’Neill conceived of the invention of claims 1-16 and 20 before Kappos 2006 was published, and he and others at Biogen worked diligently to reduce his invention to practice, Kappos 2006 is not prior art as to those claims. Petitioner’s first two grounds of unpatentability therefore must fail.

II. Precise Relief Requested

Biogen respectfully requests that the Board find (1) that Biogen is entitled to its February 8, 2007 priority date, and (2) that Kappos 2006 (**Ex. 1003A**) and Dr. Kappos’ slide presentation (**Ex. 1007** at 56-77) are not prior art to at least claims 1-16 and 20 of the ’514 patent based on Dr. O’Neill’s prior conception and his and Biogen’s reasonable diligence to reduce his invention to practice.

III. Biogen Is Entitled to Its February 8, 2007 Priority Date

As established in Biogen’s Opposition, the chain of applications leading to the ’514 patent meets the requirements of §§ 119(e)(1) and 120, and the ’514 patent claims are therefore entitled to the February 8, 2007 filing date of U.S.

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