

## Table of Contents For Ex. 1020

### Declaration of Scott Bennett

Declaration of Scott Bennett -----	pages 1 - 4
Exhibit A: Resume of Scott Bennett -----	pages 5 - 11
Attachment 1a: Document 1 from Springer Link -----	pages 12 - 181
Attachment 1b: Southern Illinois University Medical Library record for the Journal of Neurology -----	page 182
Attachment 1c: General Affidavit and Copy of the Journal of Neurology Supplement cover and of Document 1 from the Southern Illinois University Medical Library -----	pages 183 - 189
Attachment 1d: Index entry for Document 1 from the online Final Programme of the May 2006 ENS meeting -----	pages 190 – 191
Attachment 1e: Online Final Programme home page for the May 2006 ENS meeting-----	page 192
Attachment 1f: Copy of Document 1 from the online Final Programme of the May 2006 ENS meeting -----	page 193
Attachment 1q: Web of Science record for Document 1 -----	pages 194 -195

SCOTT BENNETT  
Managing Partner, Prior Art Documentation Services LLP

25 September 2015

#### DECLARATION

I, Scott Bennett, am a retired academic librarian working at 711 South Race Street, Urbana, IL, 61801-4132. I was employed as a librarian as follows:

- University Librarian, **Yale University**, New Haven, CT., 1994-2001
- Director, The Milton S. Eisenhower Library, **The Johns Hopkins University**, Baltimore, MD, 1989-1994
- Assistant University Librarian for Collection Management, **Northwestern University**, Evanston, IL, 1981-1989
- Instructor, Assistant, and Associate Professor of Library Administration, **University of Illinois at Urbana-Champaign**, Urbana, IL, 1974-1981

Over the course of my work as a librarian, professor of English, researcher, and author of nearly fifty scholarly papers and other publications, I have had extensive experience with cataloging and online library management systems and with online access to information resources. As a consultant, I have substantial experience in authenticating printed documents and establishing the date when they were available to diligent researchers.

Exhibit A is my full resume. Information about my firm is available at [www.priorartdocumentation.com](http://www.priorartdocumentation.com).

I have been asked to authenticate and establish the date of public availability for the following printed document:

**Document 1:** L. Kappos and others. Efficacy of a novel oral single agent fumarate, BG00012, in patients with relapsing-remitting multiple sclerosis: results of a phase 2 study. *Journal of Neurology = Zeitschrift für Neurologie*, 253.Supplement 2 (May 2006), II/27

#### INTRODUCTORY INFORMATION

Library management of periodicals. For periodical publications, such as Document 1, a library will typically create a catalog record for the periodical when the library receives its first issue. When the institution receives subsequent issues/volumes of the periodical, the issues/volumes are checked in (often using a date stamp), added to the institution's holdings records, and made available very soon thereafter—normally within a few days of receipt or (at most) within a few weeks of receipt.

Conference papers. Conference papers, such as Documents 1 and 2, enter the realm of public discourse at the time they are presented at the conference. The circumstances of such presentation vary substantially, especially as regards the prominence of the conference, the number of conference participants, and the structure/organization of the conference. Formal publication of papers presented at conferences also varies widely. Sometimes the papers are published before the conference so as to be available to conference participants. Sometimes papers are published only after the conference, and in some cases only abstracts of the papers are published.

Because of this variability, detailed information about the conference may often be required to establish the public availability of conference papers.

*Indexing.* An ordinarily diligent researcher will typically begin his or her search for relevant information in an index of periodical and other publications. Having found relevant material, the researcher will then obtain it online, look for it in libraries, or purchase it from the publisher or other providers. Normally, the date of public availability will involve both indexing and library date information.

#### **AUTHENTICATION OF DOCUMENT 1**

Document 1 is an abstract of an oral presentation made at the 16<sup>th</sup> Annual Meeting of the European Neurological Society, held on 27-31 May 2006. Document 1 is available online from the proprietary Web site Springer Link (see <http://link.springer.com/journal/415/253/2/suppl/page/1>). Attachment 1a includes a copy of Document 1 from Springer Link (see p. II/27).

The *Journal of Neurology*, published by Springer and in which Document 1 appeared, is held by 237 libraries world-wide, in both print and in electronic form. Attachment 1b is a copy of the Southern Illinois University School of Medicine Library record for the *Journal of Neurology* ([http://vufind.carli.illinois.edu/vf-sim/Record/sim\\_44111](http://vufind.carli.illinois.edu/vf-sim/Record/sim_44111)). Attachment 1c is a copy of the title page of the journal's Supplement in which Document 1 was published; this attachment also includes a copy of Document 1 itself (p 5).

#### **DATE OF PUBLIC AVAILABILITY OF DOCUMENT 1**

*Availability at the May 2006 Meeting.* The European Neurological Society (ENS) hosts annual meetings, or congresses. The ENS list of past congresses indicates that 2,200 participants from 77 countries attended the 2006 meeting in Lausanne, Switzerland (see [http://www.ensinfo.org/congress\\_past/index.html](http://www.ensinfo.org/congress_past/index.html)). The scope of the 2006 meeting is suggested by the fact that it featured 16 symposium sessions, 127 oral presentations (in which Document 1 figured), and 471 poster sessions (Attachment 1a).

It is reasonable to infer from the recurring nature of the ENS meetings and from the large attendance at them that the May 2006 meeting was well known among investigators interested in the treatment of neurological diseases.

Document 1 may be understood to have entered the realm of public discourse when it was presented at the meeting on the afternoon of 30 May 2006, as indicated by the Final Programme for the meeting (see Attachment 1d, from [http://registration.akm.ch/einsicht.php?XNSPRACHE\\_ID=2&XNKONGRESS\\_ID=31&XNMASKEN\\_ID=400&XSSEARCH=kappos](http://registration.akm.ch/einsicht.php?XNSPRACHE_ID=2&XNKONGRESS_ID=31&XNMASKEN_ID=400&XSSEARCH=kappos)), which was last updated on 22 May 2006 (see date on Attachment 1e, from <http://www.congrex.ch/2006/ens2006/>, the online program home page). Attachment 1f is a copy of Document 1, taken from the online site for the May 2006 meeting.

*Formal publication.* The abstract for Document 1 was published in *Journal of Neurology = Zeitschrift für Neurologie*, 253.Supplement 2 (May 2006), II/2. Attachment 1c shows a date stamp (p. 4) indicating that

this Supplement was received by the Southern Illinois School of Medicine Library on 14 June 2006. It would have been available to readers very soon thereafter

Document 1 was indexed in the Web of Science (Attachment 1g). In describing the publication of conference proceedings in the biomedical sciences, the Web of Science emphasizes that the “rapid dissemination of critical information is essential” ([http://wokinfo.com/products\\_tools/multidisciplinary/webofscience/cpci/cpciessay/](http://wokinfo.com/products_tools/multidisciplinary/webofscience/cpci/cpciessay/)). One may reasonably assume that the Web of Science indexes journals in the biomedical sciences promptly after their publication, so as to facilitate this rapid dissemination of information.

**The evidence presented here indicates that the oral presentation for which Document 1 is an abstract entered the realm of public discourse on 30 May 2006. Document 1 was formally published in the May 2006 Supplement to the *Journal of Neurology*, in the same month as the Congress, suggesting a wish for the contents of the 2006 meeting to become widely available as soon as possible. The Web of Science record for Document 1 would have further ensured wide knowledge of Document 1.**

**The Southern Illinois University Medical Library received the May 2006 Supplement to the *Journal of Neurology* on 14 June 2006.**

**Based on these facts, it is my opinion that Document 1 was publicly available to an ordinarily diligent researcher concerned with multiple sclerosis by no later than 1 July 2006.**

## **ATTACHMENTS**

The following attachments are true and accurate representations of online documents and records and of library material, as they are identified above. All attachments were created on 22-25 September 2015, and all URLs referenced in this declaration were available on 24 September 2015.

Attachment 1a: Document 1 from Springer Link

Attachment 1b: Southern Illinois University Medical Library record for the *Journal of Neurology*

Attachment 1c: Copy of the *Journal of Neurology* Supplement cover and of Document 1 from the Southern Illinois University Medical Library

Attachment 1d: Index entry for Document 1 from the online Final Programme of the May 2006 ENS meeting

Attachment 1e: Online Final Programme home page for the May 2006 ENS meeting

Attachment 1f: Copy of Document 1 from the online Final Programme of the May 2006 ENS meeting

Attachment 1g: Web of Science record for Document 1

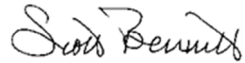
In making this Declaration, I have been retained on behalf of Neifeld IP Law, PC. I understand that this Declaration may be filed by Neifeld IP Law, PC in a contested case before the Patent Trial and Appeal Board of the United States Patent Office, in which Neifeld IP Law, PC is challenging the patentability of patent claims. I am being paid my company’s standard hourly rate, and no part of my compensation is dependent on the conclusions that I reach or the outcome of the case.

I reserve the right to supplement my opinion in the future to respond to any arguments that the Patent Owner raises and to take into account new information as it becomes available.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Dated 25 September 2015.

Sincerely,

A handwritten signature in black ink that reads "Scott Bennett". The signature is written in a cursive style with a large, stylized 'S' and 'B'.

Scott Bennett  
Managing Partner  
Prior Art Documentation Services LLP

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