

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

---

**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

---

ARGENTUM PHARMACEUTICALS LLC, MYLAN PHARMACEUTICALS  
INC., BRECKENRIDGE PHARMACEUTICAL, INC., AND ALEMBIC  
PHARMACEUTICALS, LTD.,  
Petitioners,

**v.**

RESEARCH CORPORATION TECHNOLOGIES, INC.,  
Patent Owner.

Case No. IPR2016-00204<sup>1</sup>  
Patent No. RE 38,551

---

**PATENT OWNER'S OBJECTIONS TO  
PETITIONERS' DEMONSTRATIVES**

---

<sup>1</sup> Case IPR2016-01101, Case IPR2016-01242, and Case IPR2016-01245 have been  
joined with this proceeding.

Pursuant to the Board's Order – Request for Oral Argument (Paper 79), Patent Owner conferred with Petitioners, and hereby provides a listing of remaining objections to Petitioners' demonstratives.

The arguments regarding levetiracetam in **Slide 4**, **Slide 5**, **Slide 59**, **Slide 60** and **Slides 66-76** were not present in the petition (Paper 2), and are outside the scope of a proper reply. *See* Patent Owner's Identification of Petitioners' Arguments and Evidence Outside the Scope of a Proper Reply and Improper Techniques that Circumvent Word Count (Paper 57) p. 2.

The arguments in **Slide 23**, **Slide 24**, **Slide 46**, and **Slide 81** rely on the LeGall thesis (Ex. 1008), which the Board has already determined is not prior art (Paper 19 p. 12). *See* Paper 57 p. 1. In addition, the timeline on **Slide 33** mischaracterizes the record evidence by presenting the LeGall thesis (Ex. 1008) as prior art.

The citation in the first bullet on **Slide 18** mischaracterizes the cited evidence. Page 21 of Ex. 1013 (Silverman) states in full: "***It is, actually, quite surprising that*** bioisosterism should be such a successful approach to lead modification." (emphasis added).

The argument and evidence in **Slide 22** are included in non-instituted Ground 2A of the petition (Paper 2 pp. 37-38), but are not included, or referred to,

in the instituted Grounds 3A and 3B of the petition (Paper 2 pp. 44-48), or included in the reply (Paper 52).

The argument in the second bullet on **Slide 26** is not made on cited pages 16 or 54 of the petition, cited pages 41-42 relate to non-instituted Ground 2A and are not referred to in the instituted Grounds 3A and 3B (Paper 2 pp. 44-48), and this argument is not included in the reply (Paper 52).

The second bullet on **Slide 29** mischaracterizes the cited evidence. In ¶ 277 of his declaration (Ex. 2036), Dr. Roush testified as follows: “While the N-O bond is often viewed as labile, it was not known that it was, in fact, labile in Compound 31.”

The argument in the third bullet on **Slide 37** is unsupported by the cited evidence, and it is not present in the petition (Paper 2) or the reply (Paper 52).

The argument in the title of **Slide 43** mischaracterizes Patent Owner’s position. Page 27 of the Patent Owner Response (Paper 35) states as follows: “In his 1994 publication, his second-to-last publication before the 1996 priority date, Dr. Kohn attributed this good activity to the presence of a ‘basic C( $\alpha$ )-amino substituent,’ *or a nitrogen atom capable of accepting a hydrogen bond*. Ex. 2055 at 691; Ex. 2036 ¶¶251-252.” (emphasis added).

The evidence in **Slide 44** is included in non-instituted Ground 2A of the petition (Paper 2 pp. 37-38), but is not included, or referred to, in the instituted

Grounds 3A and 3B of the petition (Paper 2 pp. 44-48), or included in the reply (Paper 52).

The argument in the second bullet of **Slide 45** directed to liver toxicity is not present in the petition (Paper 2) or the reply (Paper 52).

The cited Patent Owner evidence (Ex. 2038, ¶¶ 26, 53) does not support the argument in the third bullet on **Slide 48**.

The argument in **Slide 54** is not present in the petition (Paper 2) or the reply (Paper 52).

The argument and evidence in **Slide 77** are not supported by the cited evidence or present in the petition (Paper 2) or reply (Paper 52).

Date: January 19, 2017

Respectfully submitted,

By



Andrea G. Reister

Registration No.: 36,253

Jennifer L. Robbins

Registration No.: 61,163

Enrique D. Longton

Registration No.: 47,304

COVINGTON & BURLING LLP

One CityCenter, 850 Tenth Street, NW  
Washington, DC 20001

(202) 662-6000

Attorneys for Patent Owner

## CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, I hereby certify that on this 19th day of January 2017, the foregoing Patent Owner's Objections to Petitioners' Demonstratives was served by electronic mail, by agreement of the parties, on the following counsel of record for petitioner.

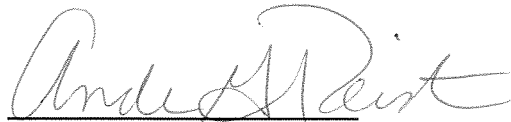
PETITIONER (IPR2016-00204)  
Matthew J. Dowd (mjdowd@dowdpllc.com)  
DOWD PLLC  
William G. Jenks (wjenks@jenksiplaw.com)  
JENKS IP LAW

PETITIONER (IPR2016-01101)  
Steven W. Parmelee (sparmelee@wsgr.com)  
Michael T. Rosato (mrosato@wsgr.com)  
Jad A. Mills (jmills@wsgr.com)  
WILSON SONSINI GOODRICH & ROSATI

PETITIONER (IPR2016-01242)  
Matthew L. Fedowitz (mfedowitz@merchantgould.com)  
Daniel R. Evans (devans@merchantgould.com)  
MERCHANT & GOULD P.C.

PETITIONER (IPR2016-01245)  
Gary J. Speier (gspeier@carlsoncaspers.com)  
Jeffer Ali (jali@carlsoncaspers.com)  
CARLSON, CASPERS, VANDENBURGH, LINDQUIST & SCHUMAN, P.A.

Date: January 19, 2017

  
Andrea G. Reister, Esq.  
Reg. No.: 36,253