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## KYLE BASS'S SUCCESS RATE AT THE PTAB – AN UPDATE

22 December 2015 | [Michael Loney](#)



**Hedge fund manager Kyle Bass has not gotten any holiday cheer from the Patent Trial and Appeal Board, with two of his petitions challenging pharmaceutical patents denied this month. The Board has now ruled on 16 of his inter partes review petitions**

December has not been kind to hedge fund manager Kyle Bass's efforts to invalidate pharmaceutical patents through Patent Trial and Appeal Board proceedings.

The Board this month has denied institution of two of his inter partes review petitions. Its decisions on December 8 and 17 both involved patents covering Pozen's Vimovo arthritis pain treatment, which is marketed in the US by Horizon Pharma.



For those keeping score, the PTAB has now given an institution decision in 16 of the 33 petitions filed by the Coalition for Affordable Drugs, the coalition set up by Bass and Erich Spangenberg to attack pharma patents.

This means the board has now given an institution decision on almost half of the Coalition for Affordable Drugs petitions (see table below).



Bass's success rate for institution now stands at 44%, with the PTAB instituting trial for seven IPRs and denying nine. This is down from the heady days of October, when Bass could boast a 54% rate of success after the Board had instituted seven of the 13 petitions it had decided up until then.

The Board has denied three petitions in a row since then.

Bass will be hoping to break this losing streak next month when the Board is likely to give more decisions, including on two more IPRs challenging the Vimovo treatment.

The PTAB has given decisions on all of Bass's petitions filed until the end of June. Next up it must decide on the 12 petitions the Coalition filed in August and the five petitions filed in September.

Interestingly, Bass and Spangenberg in November also filed two petitions with just their two names listed, and no Coalition for Affordable Drugs. These petitions challenged patents owned by AlpeX Pharma and Fresenius.

**The Coalition for Affordable Drugs' IPR petitions\***

IPR number	Date filed	Law firm used by the Coalition	Patent number	Patent owner
IPR2015-00720	February 10	Skiermont Puckett	8,663,685	Acorda Therapeutics
IPR2015-00817	February 27	Skiermont Puckett	8,007,826	Acorda Therapeutics
IPR2015-00988	April 1	Skiermont Puckett	6,773,720	Cosmo Technologies/Nogra Pharma/Shire Development/Shire Inc/Shire Pharmaceutical Development
IPR2015-00990	April 1	Merchant & Gould	7,056,886	NPS Pharmaceuticals/Shire North American Group
IPR2015-01018	April 6	Merchant & Gould	7,895,059	Jazz Pharmaceuticals
IPR2015-01076	April 20	Merchant & Gould	8,754,090	Pharmacyclics

IPR2015- April 22 01086	Neifeld IP Law	8,759,393	Biogen International
IPR2015- April 23 01102	Skiermont Puckett	6,315,720	Celgene Corporation
IPR2015- April 23 01096	Skiermont Puckett	6,315,720	Celgene Corporation
IPR2015- April 23 01103	Skiermont Puckett	6,315,720	Celgene Corporation
IPR2015- April 23 01092	Skiermont Puckett	6,045,501	Celgene Corporation
IPR2015- April 23 01093	Merchant & Gould	7,056,886	NPS Pharmaceuticals/Shire North American Group
IPR2015- May 1 01136	Neifeld IP Law	8,399,514	Biogen MA
IPR2015- May 7 01169	Merchant & Gould	5,635,517	Celgene Corporation
IPR2015- May 21 01241	Conley Rose	6,926,907	Pozen (Horizon Pharma bought the rights to the drug in November 2013))
IPR2015- June 5 01344	Conley Rose	8,858,996	Horizon Pharma/Pozen
IPR2015- August 7 01680	Conley Rose	8,852,636	Pozen (Horizon Pharma bought the rights to the drug in November 2013))
IPR2015- August 12 01718	Conley Rose	8,945,621	Horizon Pharma/Pozen
IPR2015- August 13 01723	Cunningham Swaim/Winstead	6,967,208	Bristol Myers Squibb Pharma
IPR2015- August 20 01776	Merchant & Gould	7,582,621	Anacor/Sandoz
IPR2015- August 20 01785	Merchant & Gould	7,767,657	Anacor/Sandoz
IPR2015- August 20 01780	Merchant & Gould	7,767,657	Anacor/Sandoz
IPR2015- August 22 01792	Neifeld IP Law	8,163,522	Amgen/Hoffmann-La Roche/Immunex
IPR2015- August 24 01799	Law Offices of Gregory J	8,835,460	Insys Pharma

		Gonsalves/McNeeley Hare & War			
IPR2015- 01797	August 24	Law Offices of Gregory J Gonsalves/McNeeley Hare & War	8,835,459	Insys Pharma	
IPR2015- 01800	August 24	Law Offices of Gregory J Gonsalves/McNeeley Hare & War	8,486,972	Insys Pharma	
IPR2015- 01835	August 28	Law Offices of Gregory J Gonsalves/McNeeley Hare & War	8,618,135	Aegerion Pharmaceuticals/Trustees of The University of Pennsylvania	
IPR2015- 01836	August 28	Law Offices of Gregory J Gonsalves/McNeeley Hare & War	7,932,268	Aegerion Pharmaceuticals/Trustees of The University of Pennsylvania	
IPR2015- 01850	September 2	Skiermont Puckett	8,440,703	Acorda Therapeutics	
IPR2015- 01853	September 2	Skiermont Puckett	8,007,826	Acorda Therapeutics	
IPR2015- 01858	September 3	Skiermont Puckett	8,354,437	Acorda Therapeutics	
IPR2015- 01857	September 3	Skiermont Puckett	8,663,685	Acorda Therapeutics	
IPR2015- 01993	September 28	Neifeld IP Law	8,399,514	Biogen MA	

All of the IPRs list the petitioners as the Coalition for Affordable Drugs, J Ky Spangenberg, Hayman Capital Management, various Hayman funds, IP Nav nXn Partners

Source: Docket Navigator



**IPR petitions filed listing only Kyle Bass and Erich Spangenberg**

IPR number	Date filed	Law firm used	Patent number	Patent owner	Drug used in
IPR2016- 00245	November 24	Law Offices of Gregory J Gonsalves/McNeeley Hare & War	8,440,170	Alpex Pharma	Suprenza
IPR2016- 00254	November 25	Law Offices of Gregory J Gonsalves/McNeeley Hare & War	8,476,010	Fresenius Kabi	Diprivan

Source: Docket Navigator

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