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2 UNITED STATES PATENT AND TRADEMARK OFFICE  
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3  
4 Re: Transcript of telephone conference in the  
5 matter of

6 TEVA PHARMACEUTICALS USA, INC.,  
7 Petitioner,

8 v.

9 MONOSOL RX LLC  
10 Patent Owner  
11 IPR2016-00281 and IPR2016-00282

12 and

13 INDIVIOR  
14 Patent Owner  
15 IPR2016-00280

16  
17 February 17, 2016  
18 1:02 p.m.

19 Panel:  
20 IPR2016-00280  
21 APJ Bonilla  
22 APJ Schneider  
23 APJ Yang

24 IPR2016-00281 AND IPR2016-00282  
25 APJ Franklin  
APJ Hulse  
APJ Paulraj

PETITIONER:  
Elizabeth Holland, Esq.  
The New York Times Building  
620 Eighth Avenue  
New York, NY 10018  
eholland@goodwinprocter.com

Page 2

1 TELEPHONE CONFERENCE  
 2 Eleanor M. Yost, Esq.  
 Goodwin Procter, LLP  
 3 901 New York Avenue N.W.  
 Washington, D.C. 20001  
 4 eyost@goodwinprocter.com  
 5  
 6 MONOSOL PATENT OWNER:  
 7 Daniel Scola, Esq.  
 Michael Chakansky, Esq.  
 8 Hoffmann & Baron, LLP  
 6900 Jericho Turnpike  
 9 Syosset, NY 11791  
 dscola@hbiplaw.com  
 10 mchakansky@hbiplaw.com  
 11  
 12 INDIVIOR PATENT OWNER:  
 13 Andrea Reister, Esq.  
 Rick Longton, Esq.  
 14 Covington & Burling, LLP  
 One CityCenter  
 15 850 Tenth Street, NW  
 Washington, DC 20001-4956  
 16 areister@cov.com  
 elongton@cov.com  
 17  
 18  
 19  
 20  
 21  
 22  
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Page 4

1 TELEPHONE CONFERENCE  
 2 Yost.  
 3 JUDGE FRANKLIN: Thank you. And  
 4 patent owner of MonoSol?  
 5 MR. SCOLA: This is Daniel Scola  
 6 for MonoSol on the 281 and 282, as  
 7 well as Michael Chakansky.  
 8 JUDGE FRANKLIN: Mr. Scola, did  
 9 you agree to have this combined  
 10 conference call?  
 11 MR. SCOLA: Yes, we did.  
 12 JUDGE FRANKLIN: Patent Owner,  
 13 you'll have to help me with the name  
 14 here.  
 15 MS. REISTER: Indivior.  
 16 JUDGE FRANKLIN: Thank you.  
 17 MS. REISTER: This is Andrea  
 18 Reister from Covington on behalf of  
 19 Indivior with Rick Longton, also from  
 20 Covington, and we also consent to have  
 21 the joint call.  
 22 JUDGE FRANKLIN: Thank you. Do I  
 23 understand that we have a court  
 24 reporter on the line?  
 25 MS. HOLLAND: Yes.

Page 3

1 TELEPHONE CONFERENCE  
 2 JUDGE FRANKLIN: Good afternoon  
 3 this is Judge Franklin and this is a  
 4 conference call for IPR2016-00280,  
 5 00281 and 00282 and I have on the call  
 6 with me the judges on the panels for  
 7 these cases. For the 280 case we have  
 8 Judges Schneider, Bonilla and Yang and  
 9 for the 281 and 282 cases we have  
 10 Judges Franklin, Hulse and Paulraj.  
 11 Before we begin I want to check  
 12 with counsel for each party to  
 13 determine whether you agree to have  
 14 this consolidated and combined  
 15 conference call for the 280 case along  
 16 with the 281 and 282 cases. Let's  
 17 begin with Petitioner.  
 18 MS. HOLLAND: Good afternoon,  
 19 Your Honor. This is Elizabeth Holland  
 20 of Goodwin Procter for Petitioner and  
 21 yes, we've consented to have this  
 22 joint call.  
 23 JUDGE FRANKLIN: Who is with you  
 24 on the call?  
 25 MS. HOLLAND: With me is Eleanor

Page 5

1 TELEPHONE CONFERENCE  
 2 JUDGE FRANKLIN: Who has arranged  
 3 for the court reporter?  
 4 MS. HOLLAND: The Petitioner has  
 5 arranged for the court reporter.  
 6 JUDGE FRANKLIN: Then we'll ask  
 7 you to then file in each case a copy  
 8 of the transcript by the court  
 9 reporter as soon as it's available.  
 10 MS. HOLLAND: We will do that,  
 11 Your Honor.  
 12 JUDGE FRANKLIN: So this  
 13 conference call was prompted by  
 14 Petitioner's request to have the  
 15 filing accorded and the 281 and 282  
 16 cases changed from changed December 4,  
 17 2015 to December 3, 2015. So let's  
 18 begin with Petitioner addressing that  
 19 issue briefly.  
 20 MS. HOLLAND: Yes, Your Honor.  
 21 There are actually three IPRs that  
 22 were intended to all be filed on  
 23 December 3rd: 280, 281 and 282. When  
 24 the documents were being uploaded  
 25 those dates we experienced unusual

2 (Pages 2 - 5)

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<p style="text-align: right;">Page 6</p> <p>1 TELEPHONE CONFERENCE  2 delays in the PRPS system. The system  3 was freezing. It just took a really  4 long time, much longer than we've  5 experienced in the past to get  6 everything uploaded. Notwithstanding  7 all those difficulties, we are able to  8 get the petitions and exhibits all  9 uploaded on December 3rd. However,  10 with respect to the 281 and 282 cases,  11 we also experienced difficulties with  12 getting the payment accepted on the  13 PRPS system. We got several messages  14 saying that the system couldn't  15 process the payment and either "try  16 again" or "try a new method of  17 payment." By the time we sorted  18 through those difficulties with the  19 payment it was for the '541 patent,  20 either right before or right after the  21 stroke of midnight and then for the  22 '150 was a couple of minutes later, I  23 think it was 12:09. So everything was  24 ready to go on the third. It was all  25 uploaded on the third. It was simply</p>	<p style="text-align: right;">Page 8</p> <p>1 TELEPHONE CONFERENCE  2 system crashed, froze, we had to  3 reboot. Can I tell you for sure that  4 it was the PRPS system and not a  5 combination of that and our system? I  6 don't know. I mean, we tried to  7 troubleshoot it best we could that  8 night. We tried many different  9 things; logging out, logging in again.  10 And as I said, we were able to  11 accomplish all the uploading of the  12 petition and exhibits on December 3rd.  13 With respect to the payments, what we  14 received that night when we were  15 trying different methods of payment  16 was simply an error that didn't  17 indicate there were insufficient funds  18 it's just that we can't process, try  19 again or try a new method of payment.  20 JUDGE FRANKLIN: Let me stop you  21 again. I'm going to ask you two  22 questions: The first one being, when  23 did you begin trying to upload the  24 petitions on purpose? Apparently it  25 was after hours because we did not</p>
<p style="text-align: right;">Page 7</p> <p>1 TELEPHONE CONFERENCE  2 a matter of not being able to get the  3 payment processed due to maybe a  4 combination of different things that  5 were happening on the system but once  6 the payments were processed we  7 submitted everything.  8 JUDGE FRANKLIN: Counselor, let  9 me stop you there because in the  10 e-mail from Ms. Yost there is an  11 indication in the subject line that  12 there were technical difficulties.  13 And in the body of the e-mail I think  14 there is some assertion that there was  15 a crash in the system. Is it your  16 position that the difficulties you  17 experienced uploading the petitions or  18 making payment were due to system  19 errors or simply insufficient funds  20 being applied?  21 MS. HOLLAND: I guess let me  22 start with whether or not there were  23 system errors. What I can tell you,  24 Your Honor, is that we experienced a  25 lot of delays with the system so the</p>	<p style="text-align: right;">Page 9</p> <p>1 TELEPHONE CONFERENCE  2 receive a call immediately. And the  3 second question would be: Did you  4 save or keep or make any screen shots  5 indicating error messages to support  6 your position?  7 MS. HOLLAND: So the first  8 petition, which was 280, we began  9 uploading at 9:45. Based on past  10 experience, we had expected that  11 process to upload, the petition and  12 exhibits, to take around 20 minutes or  13 so. It ended up taking about an hour  14 and a half, or maybe a little less  15 than that.  16 With respect to the error  17 messages, I'm not sure that there were  18 error messages, per se. It was more  19 that the system was freezing, crashing  20 on us. I'll actually let Ms. Yost  21 address that because she was the  22 person actually hands-on so maybe she  23 can provide a little more level of  24 detail, if that's what you are looking  25 for.</p>

3 (Pages 6 - 9)

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<p style="text-align: right;">Page 10</p> <p>1 TELEPHONE CONFERENCE  2 MS. YOST: Good afternoon, Your  3 Honor. With respect to the document  4 uploading errors, what we experienced  5 were when documents went to be  6 uploaded what we usually see is a  7 small circle that then as the document  8 is being uploaded and then the  9 document is made available on the  10 system. In our experience that  11 evening the little circle would go for  12 quite a while and then stop. And what  13 that would necessitate would be a hard  14 exit out of the system. In other  15 words, we couldn't click anywhere else  16 in Internet Explorer and so we had to  17 force close the browser. When we  18 reopened the browser we were presented  19 with a screen that had what looked to  20 me like a padlock on it which I  21 understood later to mean that we had  22 to unlock the process that was ongoing  23 at the time, reenter the uploading  24 process and then start again. This  25 happened several times over the course</p>	<p style="text-align: right;">Page 12</p> <p>1 TELEPHONE CONFERENCE  2 JUDGE FRANKLIN: So the issue  3 really comes to the payment, the  4 timing of the payment?  5 MS. HOLLAND: Yes, that's  6 correct, Your Honor. And as I said,  7 we do have e-mails showing that  8 payment was attempted on both of the  9 petitions at issue, 281 and 282, prior  10 to midnight. Those were, as I said  11 earlier, rejected and we weren't given  12 any message in terms of why they had  13 been rejected so we kept trying  14 different methods payment. And as I  15 said, for the 281 petition it's  16 possible that it was actually a couple  17 of seconds before midnight. The  18 message that we got that the payment  19 had been accepted was exactly at  20 midnight. For the '150 it was a  21 couple minutes later, 12:09.  22 JUDGE FRANKLIN: Is there  23 anything else that you would like to  24 add regarding your position?  25 MS. HOLLAND: I just wanted to</p>
<p style="text-align: right;">Page 11</p> <p>1 TELEPHONE CONFERENCE  2 of --  3 JUDGE FRANKLIN: But the system  4 did not crash, right? Are you  5 suggesting that there was a crash in  6 the system?  7 MS. YOST: No, the system  8 wouldn't allow us to do anything --  9 JUDGE FRANKLIN: To navigate  10 between pages?  11 MS. YOST: We couldn't do  12 anything. Couldn't actually even  13 change windows on Internet Explorer.  14 The only thing we could do, that it  15 would permit us to do, would be a  16 CONTROL-ALT-DELETE close, a force  17 close of the entire browser.  18 JUDGE FRANKLIN: And that was at  19 the time you were trying to upload the  20 petitions?  21 MS. YOST: Correct.  22 JUDGE FRANKLIN: But all the  23 petitions were apparently uploaded  24 prior to midnight?  25 MS. HOLLAND: Correct.</p>	<p style="text-align: right;">Page 13</p> <p>1 TELEPHONE CONFERENCE  2 make clear, Your Honor, that as soon  3 as we discovered that we had been  4 given this December 4th date, we  5 immediately wrote an e-mail to the  6 Board, as I said earlier, as we  7 discussed earlier, we didn't delay  8 anything at all. We tried to get this  9 resolved as soon as possible. We were  10 told that we would need to wait for  11 the Panel before we could do anything  12 about it.  13 JUDGE FRANKLIN: And --  14 MS. HOLLAND: I'm sorry, I  15 apologize, so that's with respect to  16 the filing. With respect to the  17 service, we had, again as I said,  18 intended to file and serve on  19 December 3rd. Based on a combination  20 of issues that had to do with trying  21 to troubleshoot problems with the PRPS  22 system as well as getting the printing  23 of all the exhibits and the petitions  24 done before midnight, it actually  25 spilled over and we worked diligently</p>

4 (Pages 10 - 13)

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<p style="text-align: right;">Page 14</p> <p>1 TELEPHONE CONFERENCE  2 to get everything printed but it did  3 not make it to the Fed Ex office until  4 3 a.m. on December 4th. The  5 certificates of service actually state  6 December 3rd because when Ms. Yost was  7 preparing them it was our intention  8 and expectation that they would be  9 served on December 3rd. As it  10 happens, the clerical staff that was  11 tasked with getting these things in  12 the boxes and over to Fed Ex didn't  13 accomplish that until about 3 a.m. on  14 the 4th.  15 JUDGE FRANKLIN: Thank you.  16 MS. HOLLAND: We did -- I'm  17 sorry, one more thing on that. In the  18 afternoon, when we started the process  19 of the printing of everything, one of  20 the methods that we tried to  21 troubleshoot that night about the  22 difficulties with the freezing, et  23 cetera, the PRPS system, was to stop  24 the printing for a period of time to  25 see if that maybe could alleviate the</p>	<p style="text-align: right;">Page 16</p> <p>1 TELEPHONE CONFERENCE  2 would be but we were taking them at  3 their word that there were some things  4 missing from the boxes.  5 JUDGE FRANKLIN: What I envision  6 you doing is speaking more about these  7 technical difficulties that you are  8 asserting you experienced and caused  9 the delay in the filing of the 281 and  10 282 cases. So we will let Patent  11 Owner first address their issue with  12 regard to the certificate of service.  13 So if you don't have more relating to  14 the delay of the uploading and filing  15 of the 281 and 282, I'll ask Patent  16 Owner MonoSol to respond to what  17 you've stated there.  18 MR. SCOLA: Your Honor, this is  19 Dan Scola. Our position is that we  20 would oppose any attempt by Petitioner  21 to change the filing dates of the '514  22 and the '150 patents, that's the 281  23 and the 282.  24 We have two main points to make  25 and one of them is the late service,</p>
<p style="text-align: right;">Page 15</p> <p>1 TELEPHONE CONFERENCE  2 problems with uploading the documents  3 so that caused a delay that was a  4 factor in it spilling over to 3 a.m.  5 instead of prior to midnight.  6 One additional point on the  7 service, and again this only applies  8 to 281 and 282 IPRs, we had instructed  9 the clerical staff to load the boxes  10 that were going to go out for service  11 and bring them to Fed Ex and we  12 assumed that that had been done. We  13 were informed by Patent Owner on  14 December 23rd, in the evening, that in  15 fact they had noticed that there were  16 some documents missing from the boxes.  17 Again, this is not something we could  18 have corrected earlier because we  19 simply didn't know there was anything  20 missing from the boxes until we were  21 alerted to that fact. As soon as we  22 were alerted by Patent Owner, we  23 served the documents that they said  24 had been missing from the boxes. We  25 obviously had no way to know what they</p>	<p style="text-align: right;">Page 17</p> <p>1 TELEPHONE CONFERENCE  2 the delivery to Fed Ex on the 4th  3 where we have a tracking receipt and  4 you just heard the Petitioner say that  5 they in fact did deliver it on the  6 4th. We never received any e-mail  7 service so we didn't -- you know,  8 that's one of the requirements for  9 filing obviously, it's separate than  10 filing the petition.  11 And then the amended certificate  12 of service which was filed on  13 December 17th was not corrected, it  14 still said December 3rd. I would just  15 like to point that out. It didn't  16 make a correction on December 4th and  17 we called Fed Ex to confirm that the  18 boxes were in fact received and we  19 think this issue is dispositive for  20 late service as one of the  21 requirements for obtaining a filing  22 date.  23 Incomplete service as well,  24 that's the second point. On the 281,  25 we did not receive a declaration and</p>

5 (Pages 14 - 17)

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