UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TEVA PHARMACEUTICALS USA INC.

Petitioner

v.

MONOSOL RX, LLC,

Patent Owner

IPR2016-00281
Patent 8,603,514 B2

IPR2016-00282
Patent 8,017,150 B2[1]

DECLARATION OF LINDA ROGERS IN SUPPORT OF PETITIONER'S MOTION TO CORRECT FILING DATE

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[1] Petitioner attests that the word-for-word identical paper is filed in each proceeding identified in the heading.

IPR2016-00281 Exhibit 1042
IPR2016-00282 Exhibit 1051

I, Linda Rogers, hereby declare:

1.   I am legal assistant at the law firm of Goodwin Procter LLP, counsel of record for Petitioner Teva Pharmaceuticals USA Inc. I make this Declaration in support of Petitioner's Motion to Correct the Filing Date of IPR2016-00281 and IPR2016-00282 from December 4, 2015 to December 3, 2015. This Declaration is based on my own personal knowledge and, if called as a witness, I could and would testify competently to the facts in this Declaration.

2.   As laid out below, on the evening of December 3, 2015, Petitioner's counsel filed three IPR petitions concerning U.S. Patent Nos. 8,475,832, 8,603,514, and 8,017,150, which will be referred to herein as the "'280 petition," "'281 petition," and "'282 petition."

3.   During the course of the evening, we experienced technical difficulties using the USPTO's Patent Trial and Appeal Board Patent Review Processing System ("PRPS") that prevented us from submitting the petitions in these proceedings by midnight EST.

4.   I began filing the '280 petition and related documents at approximately 9:45pm EST on December 3rd. The process involves: (1) logging into PRPS under an authorized account (in this case, the account of Elizabeth Holland, who is lead counsel in these proceedings); (2) filling out forms requesting bibliographic information about the case, the patent at issue, and the

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IPR2016-00281 Exhibit 1042
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attorneys of record; (3) providing payment information (e.g., credit card and/or deposit account information); and (4) uploading the petition and related documents to the PRPS server.

5.   During the process of uploading documents filed in connection with the '280 petition to the PRPS server, I observed that PRPS was functioning highly unusually. In particular, PRPS repeatedly froze during the '280 petition upload process.

6.   For example, when I selected certain exhibits for upload, the browser would show a spinning circle. This circle usually appears only for a few seconds while the selected document is uploading. On December 3rd, however, the circle appeared for much longer than usual in connection with several exhibits. When this happened, the circle would stop spinning after several seconds to several minutes, and the PRPS system stopped functioning altogether.

7.   When this occurred, I was unable to take any action whatsoever (including actions such as selecting another option on PRPS, closing the browser window or opening new windows). The computer itself and other programs, however, remained functional. (That evening, I was using a reliable computer that was connected to the Internet via high-speed connections. I accessed the PRPS system via Internet Explorer.)

8.   When PRPS malfunctions in this way, the only way to re-start the

PRPS session that I am aware of is to force-close the Internet Explorer browser (i.e., selecting CTRL-ALT-DEL and shutting down the browser through the task menu), re-open the browser, re-login to PRPS, and attempt to resume the filing. This PRPS "rebooting" process took several minutes each time.

9.   When this happened on the night of December 3rd, I repeatedly engaged in the force-close process. Once logged back into the PRPS system, though, the session was administratively "locked" from access. In other words, when the PRPS session was re-started, the screen displayed a large graphic of a "padlock" and an error message that prevented any further work on the filing. Ultimately, a menu option to "unlock" the session was located to resume filing, but this additional step of "unlocking" the locked filing session further added additional time to the overall filing.

10.   Once unlocked, the filing was able to be resumed, but the document associated with the attempted upload was gone. I was required to re-trace all of the uploading steps for each document for which the error occurred.

11.   This "freezing", re-starting, locking, and unlocking of PRPS on several occasions added a significant amount of time to each filing. The total time to complete the '280 petition filing took nearly an hour and a half, almost an hour and ten minutes longer than usual.

12.   I have previously completed PRPS filings using the same computer

running the same Internet Explorer browser without these difficulties. In fact, in the past, similar documents were uploaded from my computer using the same Internet browser and connected through the same system to PRPS in a matter of seconds.

13. In my experience, a complete filing with a similar number of exhibits to that of the '280 and '282 petitions typically takes 20 minutes or less each. In all, the total time to upload the complete set of documents in the proceedings took hours—significantly longer than expected and experienced in other, similar PRPS filings.

14. I believe that the repeated crashes and restarts were caused by the PRPS system.

15. I ultimately uploaded the complete set of '280 petition-related documents and paid the required fee before midnight on December 3rd using a firm American Express card. PRPS generated a notice of the successful filing at approximately 11:11PM, and I was instructed by Ms. Yost to immediately begin the filing what would become the '282 petition.

16. I experienced the same problems with the PRPS system when attempting to file the documents associated with the '282 petition. The system crashed on several occasions.

17. Ultimately, I believe the petition and exhibits associated with the

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