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APPELLANT'S APPEAL BRIEF

I. Statement of the Real Party in Interest

MonoSol Rx, LLC, owner of U.S. Patent No. 7,897,080 (the "'080 Patent"), is the real party in interest for Appellant.

II. Related Appeals and Interferences

Other than as noted below, Appellant is not aware of any related appeals, interferences or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

On November 2, 2010, Appellant commenced an action, for patent infringement of several patents it owns, namely, U.S. 7,824,588 (the "'588 Patent"), U.S. 7,357,891 (the "'891 Patent") and U.S. 7,425,292 (the "'292 Patent"), against Third Party Requestor, *inter alia*, in the U.S. District Court for the District of New Jersey, captioned *MonoSol Rx, LLC v. BioDelivery Sciences International, Inc., MEDA Pharmaceuticals, Inc. and Aveva Drug Delivery Systems, Inc.*, 10-cv-5695 ("the Litigation").

While the Litigation was ongoing, Third Party Requester first requested *inter partes* reexamination of the '588 Patent (95/001,753, filed September 12, 2011); and then requested *ex parte* reexamination of the remaining patents in the Litigation, the '891 Patent (90/012,098, filed January 20, 2012) and the '292 Patent (90/012,097, filed January 20, 2012). After filing all of its reexamination requests, Third Party Requestor, *inter alia*, moved the District Court to stay the

Litigation and on March 7, 2012, the Court stayed the Litigation and the stay is still in effect.

The '891 Patent and the '292 Patent successfully exited reexamination with reexamination certificates, leaving the '588 Patent *inter partes* reexamination pending and currently on appeal to the PTAB.

On June 12, 2013, Third-Party Requestor, improperly petitioned for *Inter Partes* Review of the '891 Patent (IPR2013-00316) and the '292 Patent (IPR2013-00315) which had recently successfully exited reexamination. The PTAB denied both petitions on November 13, 2013, as untimely.

Third-Party Requester has also requested *inter partes* reexamination of two additional patents of Appellant, namely, the '080 Patent and U.S. 7,666,337 (the " '337 Patent") (Control No. 95/002,171). The '337 Patent reexamination is currently on appeal to the PTAB. All five (5) reexaminations were assigned to the same examiner, Alan D. Diamond.

Several ANDA-based actions have been recently commenced for patent infringement arising from the submission of ANDAs regarding '150 Patent, *inter alia.*, in the U.S. District Court for the District of Delaware. The '150 Patent is a divisional of the application for the '337 Patent, of which the '080 Patent is a continuation. On August 20, 2013, Reckitt Benckiser Pharmaceuticals, Inc. ("RBP"), RB Pharmaceuticals Limited ("RBP UK") and Appellant commenced their patent action against Par Pharmaceutical, Inc., IntelGenX Technologies Corp., and LTS Lohmann Therapy Systems Corp., captioned *Reckitt Benckiser Pharmaceuticals, Inc., et al. v. Par Pharmaceutical, Inc., et al.*, 1:13-cv-01461. On October 8, 2013, RBP, RBP UK and Appellant commenced their patent action against Watson Laboratories, Inc. and Actavis,

Inc., captioned *Reckitt Benckiser Pharmaceuticals, Inc., et al. v. Watson Laboratories, Inc., et al.*, 1:13-cv-01674. On December 6, 2013, RBP, RBP UK and Appellant commenced their patent action against Alvogen Pine Brook, Inc. and Alvogen Group, Inc., captioned *Reckitt Benckiser Pharmaceuticals, Inc., et al. v. Alvogen Pine Brook, Inc., et al.*, 1:13-cv-02003.

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