

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MYLAN PHARMACEUTICALS INC., MYLAN LABORATORIES LIMITED,  
ALEMBIC PHARMACEUTICALS LIMITED, TORRENT  
PHARMACEUTICALS LIMITED, AND AMERIGEN PHARMACEUTICALS  
LIMITED  
Petitioners,

v.

UCB PHARMA GMBH  
Patent Owner.

Patent No. 6,858,650  
Case IPR2016-00510

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**PETITIONER MYLAN PHARMACEUTICALS INC. AND MYLAN  
LABORATORIES LIMITED'S RESPONSE TO PATENT  
OWNER'S NOTICE OF OBJECTIONS UNDER 37 C.F.R. § 42.64  
TO EVIDENCE SUBMITTED IN SUPPORT OF PETITIONER'S  
CORRECTED REPLY**

Petitioners Mylan Pharmaceuticals Inc. and Mylan Laboratories Limited (jointly “Mylan”)<sup>1</sup> submits the following in Response to Patent Owner UCB Pharma GmbH (“UCB”) Objections to Evidence submitted with Mylan’s Corrected Reply, dated and served on January 24, 2017. Mylan reserves all rights to respond to UCB’s objections to Exhibits that are not specifically referenced below and to respond further to UCB’s objections to Exhibits that are referenced below.

Section 42.64(b)(1) requires that evidentiary objections “must identify the grounds for the objection with sufficient particularity to allow correction in the form of supplemental evidence.” 37 C.F.R. § 42.61(b)(1), 77 Fed. Reg. 48676 (Aug. 14, 2012). Many of UCB’s objections contain only conclusory reference to objections or the Federal Rules of Evidence, and thus do not provide the required particularity. For example, UCB objects to Exhibits 1073-1076 under Federal Rules of Evidence 401-403 and “for reasons made on the record during the deposition” lack the required particularity.

UCB’s objections to Exhibit 1073-1076 under the Federal Rules of Evidence 401-403 are without merit, particularly because the parties agreed that each of

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<sup>1</sup> Petitioners Alembic Pharmaceuticals Limited from IPR2016-01596, Torrent Pharmaceuticals Limited from IPR2016-01636, and Amerigen Pharmaceuticals Limited from IPR2016-01665 have been joined as Petitioners to this proceedings.

deposition transcripts reflected in these exhibits would serve as the cross examination testimony of individuals who submitted affidavits in support of Patent Owner’s Response. *See* 37 C.F.R. § 42.51(b)(1)(ii), which permits as routine discovery the cross examination of affidavit testimony in IPR proceedings. Nevertheless, Mylan serves herewith Exhibit 1077 as supplemental evidence to provide additional information on the relevance of the exhibits to this proceeding.

<b>Exhibit 1073</b>	
<b>Objection(s)</b>	FRE 106; FRE 401; FRE 402; FRE 403; “for reasons made on the record during the depositions”; lacking foundation and misleading; mischaracterizes the testimony
<b>Response</b>	Exhibit 1073 is a portion of the deposition transcript of Dr. William Roush. Patent Owner submitted an affidavit of Dr. Roush in support of Patent Owner’s Response, which was given under the penalty of perjury. As further detailed in Exhibit 1077, the parties agreed that the deposition transcript of Dr. Roush in a district court litigation regarding validity of this patent would serve as the cross examination testimony of Dr. Roush in this proceeding. Exhibit 1073 is relevant at least to further explain the opinion of Dr. Roush expressed in this proceeding.
<b>Exhibit 1074</b>	
<b>Objection(s)</b>	FRE 106; FRE 401; FRE 402; FRE 403; “for reasons made on the record during the depositions”; lacking foundation and misleading; mischaracterizes the testimony
<b>Response</b>	Exhibit 1074 is a portion of the deposition transcript of Dr. Hans Maag. Patent Owner submitted an affidavit of Dr. Maag in support of Patent Owner’s Response, which was given under the penalty of perjury. As further detailed in Exhibit 1077, the parties agreed that the deposition transcript of Dr. Maag in a district court litigation regarding validity of this patent would serve as the cross

	<p>examination testimony of Dr. Maag in this proceeding. Exhibit 1073 is relevant at least to further explain the opinion of Dr. Maag expressed in this proceeding.</p> <p>Petitioner admits that its reply included a quote of Dr. Maag, “tolterodine is not actually a very good product because it doesn’t get converted completely to 5-HMT,” that inadvertently failed to change the word “product” to “prodrug” as identified in Dr. Maag’s errata sheet. Petitioner disagrees that this error mischaracterizes the testimony because it is clear persons of skill viewed dosing of tolterodine akin to dosing a prodrug.</p>
<b>Exhibit 1075</b>	
<b>Objection(s)</b>	FRE 106; FRE 401; FRE 402; FRE 403; “for reasons made on the record during the depositions”; lacking foundation and misleading; mischaracterizes the testimony
<b>Response</b>	Exhibit 1075 is a portion of the deposition transcript of Dr. Leonard Chyall. Patent Owner submitted an affidavit of Dr. Chyall in support of Patent Owner’s Response, which was given under the penalty of perjury. As further detailed in Exhibit 1077, the parties agreed that the deposition transcript of Dr. Chyall in a district court litigation regarding validity of this patent would serve as the cross examination testimony of Dr. Chyall in this proceeding. Exhibit 1073 is relevant at least to further explain the opinion of Dr. Chyall expressed in this proceeding.
<b>Exhibit 1076</b>	
<b>Objection(s)</b>	FRE 106; FRE 401; FRE 402; FRE 403; “for reasons made on the record during the depositions”; lacking foundation and misleading; mischaracterizes the testimony
<b>Response</b>	Exhibit 1076 is a portion of the deposition transcript of Dr. Clause Meese. Patent Owner submitted an affidavit of Dr. Meese in support of Patent Owner’s Response, which was given under the penalty of perjury. As further detailed in Exhibit 1077, the parties agreed that the deposition transcript of Dr. Meese in a district court litigation regarding validity of this patent would serve as the cross

	examination testimony of Dr. Meese in this proceeding. Exhibit 1073 is relevant at least to further explain the opinion of Dr. Meese expressed in this proceeding.
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Further, Mylan hereby submits the following additional supplemental information as additional support in responding to UCB’s objections, and this additional information should resolve UCB’s objections to Exhibits 1073-1076.

Exhibit 1073A	Deposition transcript of Dr. William Roush <sup>2</sup>
Exhibit 1074A	Deposition transcript of Dr. Hans Maag <sup>3</sup>
Exhibit 1075A	Deposition transcript of Dr. Leonard Chyall <sup>4</sup>
Exhibit 1076A	Deposition transcript of Dr. Clause Meese <sup>5</sup>
Exhibit 1077	Declaration of Alyson L. Wooten Regarding Exhibits 1073-1076 <sup>6</sup>

<sup>2</sup> Served but not filed, as supplemental information, pursuant to 37 C.F.R. § 42.64(b)(2). A request for permission to file a motion to file supplemental information pursuant to 37 C.F.R. § 42.123(a) has been sent to the Board concurrently with this filing.

<sup>3</sup> Served but not filed, as supplemental information, pursuant to 37 C.F.R. § 42.64(b)(2). A request for permission to file a motion to file supplemental information pursuant to 37 C.F.R. § 42.123(a) has been sent to the Board concurrently with this filing.

<sup>4</sup> Served but not filed, as supplemental information, pursuant to 37 C.F.R. § 42.64(b)(2). A request for permission to file a motion to file supplemental information pursuant to 37 C.F.R. § 42.123(a) has been sent to the Board concurrently with this filing.

<sup>5</sup> Served but not filed, as supplemental information, pursuant to 37 C.F.R. § 42.64(b)(2). A request for permission to file a motion to file supplemental information pursuant to 37 C.F.R. § 42.123(a) has been sent to the Board concurrently with this filing.

<sup>6</sup> Served but not filed, as supplemental information, pursuant to 37 C.F.R. § 42.64(b)(2).

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