

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MYLAN PHARMACEUTICALS INC. and MYLAN LABORATORIES  
LIMITED,  
Petitioner,

v.

UCB PHARMA GMBH,  
Patent Owner.

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

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**PATENT OWNER'S NOTICE OF SUPPLEMENTAL EVIDENCE IN  
RESPONSE TO PETITIONER'S OBJECTIONS TO EXHIBITS**

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Patent Owner UCB Pharma GmbH (“UCB”) submits this Notice of Supplemental Evidence in Response to “Petitioner’s Objections to Patent Owner’s Evidence Pursuant to 37 C.F.R. § 42.64” dated October 31, 2016. In response to Petitioner’s objections, UCB serves herewith supplemental evidence, identified as Exhibits 2026A, 2027A, and 2102, pursuant to 37 C.F.R. § 42.64(b)(2). UCB further files and serves herewith its Amended List of Exhibits pursuant to 37 C.F.R. § 42.63(e). Patent Owner’s Amended List of Exhibits identifies its supplemental evidence, Exhibits 2026A, 2027A, and 2102, and includes amended descriptions for Exhibits 2049, 2072, and 2075, in response to Petitioner’s objections.

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 Petitioner’s objections contain only conclusory references to the Federal Rules of Evidence, and thus do not provide the required particularity. For example, Petitioner’s objections to various paragraphs of Exhibits 2021, 2022, 2023, 2024, and 2025 under Federal Rule of Evidence 703 lack the required particularity.

Petitioner’s objections to Exhibits 2094-2101 under Federal Rules of Evidence 802 and 901 are without merit, particularly because these exhibits were

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authenticated as business records by Dr. Clause Meese in his sworn declaration (Ex. 2025). Nevertheless, Patent Owners serve herewith Exhibit 2102 as supplemental evidence to provide additional information on the retrieval of these exhibits. The availability of Exhibits 2094-2101 to persons of ordinary skill in the art is not relevant because these exhibits are not presented as prior art, but rather as permissible evidence of nonobviousness of the challenged claims.

All of Patent Owner's exhibits were cited by Patent Owner in its Response or by Patent Owner's declarants in their supporting declarations, and none lack relevance under Federal Rules of Evidence 401 and 402. Petitioner's objections to Exhibits 2021 and 2023 as irrelevant for relating to secondary considerations are without merit because Patent Owner established in its Response, supported by the Chyall Declaration (Ex. 2024), the nexus between the commercial embodiment and the challenged claims. Petitioner's objections to certain additional exhibits as irrelevant, including, but not limited to, Exhibits 2036, 2040, 2050 and 2064, mischaracterize the purpose of these exhibits, which provide context and comparative analysis and are not presented as prior art. Further, relevance objections to Exhibits 2071, 2073-2074, 2076-2091 are particularly lacking because these exhibits substantiate Patent Owner's assertions that the commercial embodiment of the challenged claims was an improvement in the field of treatment

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and possesses unexpected beneficial properties that could not have been predicted. Such substantiating evidence would, necessarily, post-date the priority date.

UCB reserves all rights to respond to any further explanations Petitioner is allowed to provide regarding its evidentiary objections. Patent Owner's service of supplemental evidence is timely under 37 C.F.R. § 42.64(b)(2) because it is served within 10 business days of the service of Petitioner's objections.

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Respectfully submitted,

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