

Filed on behalf of: Par Pharmaceutical, Inc.

Served: August 29, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PAR PHARMACEUTICAL, INC.
Petitioner

v.

NOVARTIS AG
Patent Owner

Case IPR2016-01479
U.S. Patent No. 9,006,224

Before LORA M. GREEN, CHRISTOPHER L. CRUMBLEY, and
ROBERT A. POLLOCK, *Administrative Patent Judges*.

**PETITIONER'S OBJECTIONS TO
PATENT OWNER'S EVIDENCE ENTERED AT DR. RATAIN'S
DEPOSITION**

Pursuant to the parties' agreement at the deposition of Dr. Mark Ratain on August 28, 2017 and under 37 C.F.R. § 42.64(a), Petitioner Par Pharmaceutical, Inc. ("Petitioner") submits the following objections to evidence entered by Patent Owner Novartis AG ("Patent Owner") on August 28, 2017. Petitioner's objections apply equally to Patent Owner's reliance on this evidence in any subsequently-filed documents or further proceedings in this matter. These objections are timely, having been served the day following the deposition, as the parties agreed on the record.

Notwithstanding these objections, Petitioner expressly reserves the right to rely on any evidence submitted by Patent Owner, including on the ground that such evidence constitutes a party admission.

Objections

Exhibit 2107

Petitioner objects to this document under FRE 401, 402, and 703, as the document does not have a tendency to make the facts for which it is offered any more or less probable than those facts would otherwise be. This exhibit relates to treatments for diabetes. As such, Ex. 2107 is not relevant to any issue in this IPR proceeding and is not the type of document upon which a person of ordinary skill in the art at the time of the invention would rely. Further, Ex. 2107 published after the November 21, 2005 priority date of the '224 patent and is not a document upon

which a person of ordinary skill in the art at the time would have relied.

Petitioner objects to this document under FRE 403, as any probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, wasting time, and needlessly presenting cumulative evidence.

Petitioner further objects to this document under 37 C.F.R. § 42.53(d)(5)(ii) for failing to be limited to the scope of the direct testimony.

To the extent Patent Owner relies on the contents of this exhibit for the truth asserted, Petitioner objects to this document as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including FRE 803, 804, 805, or 807.

Exhibit 2108

Petitioner objects to this document under FRE 401, 402, and 703, as the document does not have a tendency to make the facts for which it is offered any more or less probable than those facts would otherwise be. This exhibit relates to treatments for diabetes. As such, Ex. 2108 is not relevant to any issue in this IPR proceeding and is not the type of document upon which a person of ordinary skill in the art at the time of the invention would rely. Further, Ex. 2108 published after the November 21, 2005 priority date of the '224 patent and is not a document upon which a person of ordinary skill in the art at the time would have relied.

Petitioner objects to this document under FRE 403, as any probative value is

substantially outweighed by a danger of unfair prejudice, confusing the issues, wasting time, and needlessly presenting cumulative evidence.

Petitioner further objects to this document under 37 C.F.R. § 42.53(d)(5)(ii) for failing to be limited to the scope of the direct testimony.

To the extent Patent Owner relies on the contents of this exhibit for the truth asserted, Petitioner objects to this document as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including FRE 803, 804, 805, or 807.

Exhibit 2109

Petitioner objects to this document under FRE 401, 402, and 703, as the document does not have a tendency to make the facts for which it is offered any more or less probable than those facts would otherwise be. This exhibit relates to clinical tumors in patients and not to preclinical tumor models. As such, Ex. 2109 is not relevant to preclinical tumor models and is not the type of document upon which a person of ordinary skill in the art at the time of the invention would rely.

Petitioner objects to this document under FRE 403, as any probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, wasting time, and needlessly presenting cumulative evidence.

Petitioner further objects to this document under 37 C.F.R. § 42.53(d)(5)(ii) for failing to be limited to the scope of the direct testimony.

To the extent Patent Owner relies on the contents of this exhibit for the truth asserted, Petitioner objects to this document as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including FRE 803, 804, 805, or 807.

Exhibit 2110

Petitioner objects to this document under FRE 401 and 402, as the document does not have a tendency to make the facts for which it is offered any more or less probable than those facts would otherwise be.

Petitioner objects to this document under FRE 403, as any probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, wasting time, and needlessly presenting cumulative evidence.

Petitioner further objects to this document under 37 C.F.R. § 42.53(d)(5)(ii) for failing to be limited to the scope of the direct testimony.

Further, Patent Owner has presented no evidence that Ex. 2110 was publicly available prior to November 21, 2005, and this is not the type of document on which a person of ordinary skill in the art would have relied on the time.

Respectfully submitted,

Dated: August 29, 2017

By: /Daniel G. Brown/

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