

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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WOCKHARDT BIO AG,  
Petitioner

v.

JANSSEN ONCOLOGY, INC.,  
Patent Owner

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Case IPR2016-01582  
U.S. Patent No. 8,822,438

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**PETITIONER'S OBJECTIONS TO PATENT OWNER'S  
EVIDENCE UNDER 37 U.S.C. § 42.64(b)(1)**

Petitioner Wockhardt Bio AG objects under the Federal Rules of Evidence (“FRE”) and 37 C.F.R. § 42.64(b)(1) to the admissibility of the following evidence submitted by Patent Owner, Janssen Oncology, Inc., with its Patent Owner Response filed on March 17, 2017. These objections are made within 5 business days from the March 17, 2017 service of the Patent Owner Response. Petitioner serves Patent Owner with these objections to provide notice to Patent Owner that Petitioner may move to exclude the challenged exhibits under 37 C.F.R. § 42.64(c), unless Patent Owner cures the defects identified herein.

**Exhibit 2015**

Exhibit 2015 purports to be the Declaration of Marc B. Garnik, M.D., previously submitted in *Mylan Pharms. Inc. v. Janssen Oncology, Inc.*, IPR2016-01332. To the extent Patent Owner relies on the contents of this document for the truth of the matter asserted, Petitioner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805 or 807. Petitioner further objects to Exhibit 2015 under FRE 403 because the declaration has been filed in a proceeding to which Petitioner is not a party and has had no opportunity to cross-examine the witness in this proceeding to assess the basis or correctness of the opinions offered. Moreover, Patent Owner has refused to provide Dr. Garnick for deposition in this proceeding.

**Exhibit 2016**

Exhibit 2016 purports to be the deposition transcript of Marc B. Garnick, M.D. that took place on February 16, 2017 in *Mylan Pharms. Inc. v. Janssen Oncology, Inc.*, IPR2016-01332. To the extent Patent Owner relies on the contents of this document for the truth of the matter asserted, Petitioner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805 or 807. Petitioner further objects to Exhibit 2016 under FRE 403 because the deposition transcript has been filed in a proceeding to which Petitioner is not a party and has had no opportunity to cross-examine the witness in this proceeding to assess the basis or correctness of the opinions offered. Moreover, Patent Owner has refused to provide Dr. Garnick for deposition in this proceeding.

**Exhibit 2017**

Exhibit 2017 purports to be the Declaration of Scott R. Serels, M.D., previously submitted in *Amerigen Pharms. Ltd. v. Janssen Oncology, Inc.*, IPR2016-00286. To the extent Patent Owner relies on the contents of this document for the truth of the matter asserted, Petitioner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805 or 807. Petitioner further objects to Exhibit 2017 under FRE 403 because the declaration has been filed in a

proceeding to which Petitioner is not a party and has had no opportunity to cross-examine the witness in this proceeding to assess the basis or correctness of the opinions offered. Moreover, Patent Owner has refused to provide Dr. Serels for deposition in this proceeding.

### **Exhibit 2018**

Exhibit 2018 purports to be the deposition transcript of Scott R. Serels, M.D. that took place on January 21, 2017 in *Amerigen Pharms. Ltd. v. Janssen Oncology, Inc.*, IPR2016-00286. To the extent Patent Owner relies on the contents of this document for the truth of the matter asserted, Petitioner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805 or 807. Petitioner further objects to Exhibit 2018 under FRE 403 because the deposition transcript has been filed in a proceeding to which Petitioner is not a party and has had no opportunity to cross-examine the witness in this proceeding to assess the basis or correctness of the opinions offered. Moreover, Patent Owner has refused to provide Dr. Serels for deposition in this proceeding.

### **Exhibit 2019**

Exhibit 2019 purports to be the Declaration of Scott R. Serels, M.D., previously submitted in *Amerigen Pharms. Ltd. v. Janssen Oncology, Inc.*,

IPR2016-00286. To the extent Patent Owner relies on the contents of this document for the truth of the matter asserted, Petitioner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805 or 807. Petitioner further objects to Exhibit 2019 under FRE 403 because the declaration has been filed in a proceeding to which Petitioner is not a party and has had no opportunity to cross-examine the witness in this proceeding to assess the basis or correctness of the opinions offered. Moreover, Patent Owner has refused to provide Dr. Serels for deposition in this proceeding.

**Exhibit 2020**

Exhibit 2020 purports to be the deposition transcript of Scott R. Serels, M.D. that took place on August 22, 2016 in *Amerigen Pharms. Ltd. v. Janssen Oncology, Inc.*, IPR2016-00286. To the extent Patent Owner relies on the contents of this document for the truth of the matter asserted, Petitioner objects to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805 or 807. Petitioner further objects to Exhibit 2020 under FRE 403 because the deposition transcript has been filed in a proceeding to which Petitioner is not a party and has had no opportunity to cross-examine the witness in this proceeding to assess the basis or correctness of the opinions offered. Moreover, Patent Owner has refused to provide Dr. Serels for

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