

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.,
Petitioner

v.

QUALICAPS CO., LTD,
Patent Owner

Case IPR2017-00203
Patent 6,649,180

**PATENT OWNER'S OBJECTIONS TO REPLY EVIDENCE
UNDER 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1) and the Federal Rules of Evidence (“FRE”), as applied by the Patent Trial and Appeal Board (“Board”), Patent Owner, Qualicaps Co., Ltd., submits the following objections to evidence filed or as used by Petitioner with its Reply (Paper 38). These objections are timely filed within five (5) business days of the date the Reply was filed.

Patent Owner reserves the right to present further objections to these or additional Exhibits submitted by Petitioner, as allowed by the applicable rules or other authority, including without limitation upon conclusion of cross-examination of Dr. Arthur Kibbe.

Exhibit 1028 (Deposition Transcript of Jason McConville)

This exhibit is inadmissible for at least the following reason, including under the FRE.

Exhibit 1028 is inadmissible based on the objections made of record during the August 17, 2017 Deposition of Dr. Jason McConville.

Exhibit 1029 (Reply Declaration of Arthur Kibbe)

This exhibit is inadmissible for at least the following reasons, including under the FRE.

Exhibit 1029 is inadmissible because it does not comport with the formatting requirements of 37 C.F.R. § 42.6(a)(2)(ii).

Exhibit 1029 is inadmissible because it does not comport with FRE 603 or with 37 C.F.R. § 42.53(a), for lacking the warning prescribed by 37 C.F.R. § 1.68.

Paragraphs 5–12, 19, and 20 of Exhibit 1029 are inadmissible under FRE 401/402 for irrelevance, under FRE 403 for prejudice, and under 37 C.F.R. § 42.23(b) for exceeding permissible scope of a Reply.

Paragraphs 5–17, 19, and 20 of Exhibit 1029 are inadmissible under FRE 701, 702, and 703 for not meeting the standards required of an expert witness, and under 37 C.F.R. § 42.65(a) for expressing opinions without disclosing the underlying facts or data on which the opinions are based.

Exhibits 2064–2072

Although Patent Owner submitted these exhibits in response to an order of the Board, Patent Owner objects to their admissibility for the manner in which Petitioner uses them. These exhibits are inadmissible for at least the following reasons, including under the FRE.

Exhibits 2064-2072 are inadmissible under FRE 401/402 for irrelevance, under FRE 403 for prejudice, and under 37 C.F.R. § 42.23(b) for exceeding permissible scope of a Reply.

Date: September 22, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, I certify that on the date listed below, a copy of Patent Owner's Objections To Reply Evidence Under 37 C.F.R. § 42.64(b)(1) was served by electronic mail, by agreement of the parties, to Mylan-WC-IPR@kilpatricktownsend.com on the following counsel of record for Petitioner:

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