

Paper No. _____
Filed: January 6, 2017

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TEVA PHARMACEUTICALS USA, INC.
Petitioner,

v.

ALLERGAN, INC.,
Patent Owner.

Case No. IPR2017-00579
Patent No. 8,642,556

**PETITION FOR INTER PARTES REVIEW OF
U.S. PATENT NO. 8,642,556**

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	OVERVIEW	3
A.	Brief Overview of the '556 Patent	3
B.	Brief Overview of the Prosecution History	5
C.	Brief Overview of the Scope and Content of the Prior Art.....	8
i.	U.S. Patent No. 5,474,979 to Ding <i>et al.</i> ("Ding '979," EX1006).....	9
ii.	Sall <i>et al.</i> , Two Multicenter, Randomized Studies of the Efficacy and Safety of Cyclosporine Ophthalmic Emulsion in Moderate to Severe Dry Eye Disease, 107 OPTH. 631 (2000) (EX1007).....	10
iii.	A. Acheampong <i>et al.</i> , Cyclosporine Distribution into the Conjunctiva, Cornea, Lacrimal Gland, and Systemic Blood following Topical Dosing of Cyclosporine to Rabbit, Dog, and Human Eyes, 2 LACRIMAL GLAND, TEAR FILM, AND DRY EYE SYNDROMES 1001 (1998) ("Acheampong," EX1008).....	11
iv.	U.S. Patent No. 5,578,586 to Glonek <i>et al.</i> ("Glonek," EX1009)	11
D.	Brief Overview of the Level of Skill in the Art	12
III.	GROUNDS FOR STANDING	13
IV.	Mandatory Notices under 37 C.F.R. § 42.8.....	13
V.	Statement of the Precise Relief Requested	15
VI.	STATEMENT OF NON-REDUNDANCY	16
VII.	CLAIM CONSTRUCTION	16
A.	"buffer"	17

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B.	“substantially no detectable concentration”	17
C.	“effective amount,” “therapeutically effective,” “overall efficacy,” and “therapeutic effectiveness”	18
D.	“adverse events” and “side effects”	19
E.	“break down”	20
VIII.	BACKGROUND KNOWLEDGE IN THE ART PRIOR TO SEPTEMBER 15, 2003	20
IX.	DETAILED EXPLANATION OF GROUNDS FOR UNPATENTABILITY	26
A.	[Ground 1] Claims 1-20 are Anticipated under 35 U.S.C. § 102(b) by Ding ’979	26
i.	Claims 1-10 and 12-13	26
ii.	Claim 14	34
iii.	Claims 15-17	35
iv.	Claims 11 and 18-20	36
B.	[Ground 2] Claims 1-20 are Obvious under 35 U.S.C. § 103 over Ding ’979 and Sall	40
i.	Claims 1-10, 12-13	40
ii.	Claim 14	43
iii.	Claims 15-17	43
iv.	Claims 11 and 18-20	45
C.	[Ground 3] Claims 14 and 19 are Obvious under 35 U.S.C. § 103 over Ding ’979, Sall, and Glonek	48
D.	[Ground 4] Claims 11, 18, and 20 are Obvious under 35 U.S.C. § 103 over Ding ’979, Sall, and Acheampong	50
E.	[Ground 5] Claim 19 is Obvious under 35 U.S.C. § 103 over Ding ’979, Sall, Glonek, and Acheampong	52
X.	No Objective Indicia of Non-Obviousness	53

A.	No Unexpected Results	53
B.	No Evidence of Commercial Success	64
C.	No Industry Praise	66
D.	No Long-Felt, Unmet Need.....	66
E.	No Failure of Others.....	67
XI.	CONCLUSION.....	67
XII.	CERTIFICATE OF COMPLIANCE	69
XIII.	PAYMENT OF FEES UNDER 37 C.F.R. §§ 42.15 (A) AND 42.103	70
XIV.	APPENDIX – LIST OF EXHIBITS	71

I. INTRODUCTION

Pursuant to the provisions of 35 U.S.C. § 311 and § 6 of the Leahy-Smith America Invents Act (“AIA”), and to 37 C.F.R. Part 42, Teva Pharmaceuticals USA, Inc. (“Petitioner” or “Teva”) hereby requests review of U.S. Patent No. 8,642,556 to Acheampong *et al.* (“the ’556 patent,” EX1001) that issued on February 4, 2014. PTO records indicate the ’556 patent is assigned to Allergan, Inc. (“Patent Owner”). This Petition demonstrates that there is a reasonable likelihood that claims 1-20 of the ’556 patent are unpatentable for failure to distinguish over the asserted prior art. Additional petitions are being filed to address related patents that are assigned to Patent Owner. All challenged patents are continuations from the same family and are terminally disclaimed over one another. The patents claim an ophthalmic emulsion for the treatment of overlapping ocular disorders, or conventional methods of administering the emulsion.

The ’556 patent claims a topical ophthalmic emulsion as in related U.S. Patent No. 8,685,930, but further recites a comparative clause, where an effect of the emulsion is compared to a prior art emulsion. Yet each element of the claimed emulsion, including the claimed cyclosporin A (“CsA”) and castor oil percentages and other standard emulsion ingredients, was disclosed in a single prior art reference (Ding ’979) for the same therapeutic uses, *i.e.*, treating dry eye disease.

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