

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APOTEX INC., APOTEX CORP., ARGENTUM PHARMACEUTICALS LLC,
ACTAVIS ELIZABETH LLC, TEVA PHARMACEUTICALS USA, INC., SUN
PHARMACEUTICAL INDUSTRIES, LTD., SUN PHARMACEUTICAL
INDUSTRIES, INC., AND SUN PHARMA GLOBAL FZE,
Petitioners,

v.

NOVARTIS A.G.,
Patent Owner.

IPR2017-00854¹
Patent No. 9,187,405

PETITIONERS' NOTICE OF OBJECTIONS TO EVIDENCE

¹ Cases IPR2017-01550, IPR2017-01946, and IPR2017-01929 have been joined with this proceeding.

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I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(b)(1), Apotex Inc. and Apotex Corp. (“Petitioner”) submits the following objections to Novartis A.G. (“Patent Owner”)’s Exhibit 2088, as listed on Patent Owner’s Exhibit List filed on January 29, 2018, and any reference to or reliance on the foregoing. As required by 37 C.F.R. § 42.62, Petitioner’s objections below apply the Federal Rules of Evidence (“F.R.E.”).

II. OBJECTIONS

1. Objections to EX2088, and any Reference to/Reliance Thereon

Grounds for Objection: F.R.E. 401, 402 (Irrelevant Evidence Inadmissible); F.R.E. 403 (Excluding Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons); F.R.E. 602 (Foundation); F.R.E. 701, 702, 703 (Expert Foundation and Opinions); F.R.E. 802-805 (Inadmissible Hearsay).

Petitioner objects to EX2088 as irrelevant, confusing, or a waste of time as Mr. Waibel does not purport to have any percipient knowledge regarding the substantive facts at issue in the case and EX2088 is not cited in Patent Owner’s Response. F.R.E. 401, 402, 403. Petitioner objects to EX2088 as failing to establish that Mr. Waibel has personal knowledge of the matters addressed in his declaration. F.R.E. 602. Mr. Waibel fails to establish that EX2088 is appropriate lay or expert opinion testimony under any of F.R.E. 701-703. Moreover, Mr.

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Waibel's declaration contains and relies upon hearsay and hearsay within hearsay for which no applicable exception applies. F.R.E. 802-805.

III. CONCLUSION

Exhibit 2088 was served together with Patent Owner's Opposition to Additional Discovery filed on January 29, 2018. These objections are made within 5 business days of filing pursuant to 37 C.F.R. § 42.64.

Respectfully submitted,

Dated: February 5, 2018

/ Steven W. Parmelee /

Steven W. Parmelee, Lead Counsel

Reg. No. 31,990

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CERTIFICATE OF SERVICE

This is to certify that I caused to be served a true and correct copy of the foregoing Petitioners Apotex Inc. and Apotex Corp.'s Notice of Objections to Evidence, on this 5th day of February, 2018, on the Patent Owner at the correspondence address of the Patent Owner as follows:

Jane M. Love, Ph.D.
Robert W. Trenchard
GIBSON, DUNN & CRUTCHER LLP
200 Park Avenue, 47th Floor
New York, NY 10166
Email: jlove@gibsondunn.com
Email: rtrenchard@gibsondunn.com

Respectfully submitted,

Dated: February 5, 2018

/ Steven W. Parmelee /
Steven W. Parmelee, Lead Counsel
Reg. No. 31,990