

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 AG,
Patent Owner.

Case IPR2017-00854¹
U.S. Patent No. 9,187,405

**PATENT OWNER NOVARTIS'S NOTICE OF OBJECTIONS TO
EVIDENCE**

Mail Stop Patent Board
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Novartis objects to the admissibility of the below-referenced testimony and exhibits submitted by Petitioners in Petitioners' Sur-Reply Regarding Patent Owner's Motion to Amend (Paper 85).

Novartis's objections to the admissibility of the testimony and exhibits submitted with the Petition are made in accordance with the Federal Rules of Evidence ("FRE"). Novartis's objections are also made pursuant to the Code of Federal Regulations ("C.F.R.") governing this proceeding, including without limitation 37 C.F.R. §§ 42.61-42.65 and § 42.6(a)(3).

I. OBJECTIONS TO PETITIONERS EXHIBITS

A. Exhibit 1061

Novartis objects to the admissibility of Exhibit 1061, the transcript of the April 5, 2018, deposition of Dr. Lawrence Steinman, for all the reasons Novartis stated on the record at the deposition. 37 C.F.R. § 42.64(a). Novartis further objects to Petitioners' use of that deposition in Paper 85, where petitioners assert that the deposition is relevant to certain issues. (Paper 85 at 3-6.) Novartis objects to the testimony as irrelevant for that purpose and because any probative value is outweighed by the dangers of unfair prejudice to Novartis and confusion of the issues. F.R.E. 402-403. Novartis further objects to this testimony under F.R.E. 106 insofar as other parts of the testimony provided or exhibits used in the

deposition should “in fairness” be considered alongside the cited testimony. Novartis further objects to this testimony and related argument as untimely presented.

B. Exhibit 1062

Novartis objects to the admissibility of Exhibit 1062, the transcript of the April 6, 2018, deposition of Dr. Fred Lublin, for all the reasons Novartis stated on the record at the deposition. 37 C.F.R. § 42.64(a). Novartis further objects to Petitioners’ use of that deposition in Paper 85, where petitioners assert that the deposition is relevant to certain issues. (Paper 85 at 8-9.) Novartis objects to the testimony as irrelevant for that purpose and because any probative value is outweighed by the dangers of unfair prejudice to Novartis and confusion of the issues. F.R.E. 402-403. Novartis further objects to this testimony under F.R.E. 106 insofar as other parts of the testimony provided or exhibits used in the deposition should “in fairness” be considered alongside the cited testimony. Novartis further objects to this testimony and related argument as untimely presented.

C. Exhibit 1064

Novartis objects to the admissibility of Exhibit 1064, the transcript of the April 10, 2018, deposition of Dr. William Jusko, for all the reasons Novartis stated on the record at the deposition. 37 C.F.R. § 42.64(a). Novartis further objects to

Petitioners' use of that deposition in Paper 85, where petitioners assert that the deposition is relevant to certain issues. (Paper 85 at 4-5.) Novartis objects to the testimony as irrelevant for that purpose and because any probative value is outweighed by the dangers of unfair prejudice to Novartis and confusion of the issues. F.R.E. 402-403. Novartis further objects to this testimony under F.R.E. 106 insofar as other parts of the testimony provided or exhibits used in the deposition should "in fairness" be considered alongside the cited testimony. Novartis further objects to this testimony and related argument as untimely presented.

D. Exhibit 1065

Novartis objects to the admissibility of Exhibit 1065, U.S. Pat. No. 6,770,628, "Hematopoietic Stimulation" (filed June 11, 2001) (issued August 3, 2004), as irrelevant and because any probative value is outweighed by the dangers of unfair prejudice to Novartis and confusion of the issues. F.R.E. 401-403. Novartis further objects to this exhibit as untimely submitted, and lacking proper foundation, to the extent it is offered to prove any material fact at issue. Novartis further objects to this exhibit as hearsay to the extent it is offered to prove the truth of the matter asserted. F.R.E. 801-802.

E. Exhibit 1066

Novartis objects to the admissibility of Exhibit 1066, U.S. Pat. Application

Publication No. 2005/0031585, “Method for Treating Hepatitis C Virus Infection in Treatment Failure Patients” (published February 10, 2005), as irrelevant and because any probative value is outweighed by the dangers of unfair prejudice to Novartis and confusion of the issues. F.R.E. 401-403. Novartis further objects to this exhibit as untimely submitted, and lacking proper foundation, to the extent it is offered to prove any material fact at issue. Novartis further objects to this exhibit as hearsay to the extent it is offered to prove the truth of the matter asserted. F.R.E. 801-802.

F. Exhibit 1067

Novartis objects to the admissibility of Exhibit 1067, Lawrence M. Blatt and Henry H. Hsu: International Publication No. WO 2004/078194 (published September 16, 2004), as irrelevant and because any probative value is outweighed by the dangers of unfair prejudice to Novartis and confusion of the issues. F.R.E. 402-403. Novartis further objects to this exhibit as untimely submitted, and lacking proper foundation, to the extent it is offered to prove any material fact at issue. Novartis further objects to this exhibit as hearsay to the extent it is offered to prove the truth of the matter asserted. F.R.E. 801-802.

G. Exhibit 1068

Novartis objects to the admissibility of Exhibit 1068, Edward Paul Bowman et al.: International Publication No. WO 2008/156865 (published December 24,

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.