Paper No. ___
Filed: November 20, 2017

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 INDUSTIRES, LTD., SUN PHARMACEUTICAL INDUSTRIES, INC., AND SUN PHARMA GLOBAL FZE,
Petitioners,

v.

NOVARTIS A.G.,
Patent Owner.

IPR2017-00854[1]
Patent No. 9,187,405

PETITIONERS' NOTICE OF OBJECTIONS TO EVIDENCE

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[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 Exhibits 2022, 2024, 2025, 2026, 2027, 2032, 2033, 2035, 2037, 2038, 2039, 2040, 2042, 2047, 2048, , 2054, 2056, 2057, 2058, 2062-2068, 2069, 2070, and 2072, as listed on Patent Owner's Updated Exhibit List filed on November 13, 2017, and any reference to or reliance on the foregoing Exhibits in Patent Owner's Response ("POR"), its expert declarations, or future filings by Patent Owner. 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 EX2022, 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, Duplication, or Other Reasons); F.R.E. 701, 702, 703 (Expert Foundation and Opinions); F.R.E. 802, 803, 805 (Inadmissible Hearsay).

EX2022 is duplicative of expert testimony offered by Patent Owner's other witnesses. Petitioner further objects to Exhibit 2022 to the extent it relies upon any of Exhibits 2027, 2032, 2033, 2048, 2054, 2056, and 2062 for the truth of the matter asserted. F.R.E. 802.

2. Objections to EX2024, 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. 701, 702, 703 (Expert Foundation and Opinions); F.R.E. 802, 803, 805 (Inadmissible Hearsay).

EX2024 is duplicative of expert testimony offered by Patent Owner's other witnesses. Petitioner further objects to Exhibit 2024 to the extent it relies upon any of Exhibits 2027, 2032, 2033, 2048, 2054, 2056, and 2062 for the truth of the matter asserted. F.R.E. 802.

3. Objections to EX2025 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 (Expert Foundation and Opinions); F.R.E. 801, 802, 803, 805 (Inadmissible Hearsay); F.R.E. 901 (Authenticating Evidence).

EX2025 is duplicative of expert testimony offered by Patent Owner's other witnesses. Petitioner further objects to Exhibit 2025 to the extent it relies upon any of Exhibits 2027, 2032, 2033, 2048, 2054, 2056, and 2062 for the truth of the matter asserted. F.R.E. 802.

4. Objections to Exs. 2027, 2032, 2033, 2048, 2054, 2056, and 2062 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. 801, 802, 803, 805 (Inadmissible Hearsay); F.R.E. 901 (Authenticating Evidence).

Patent Owner describes EX2017 as the "American Autoimmune Related Diseases Association, Inc. Autoimmune Disease List," which was accessed from www.aarda.org/diseaselist on October 5, 2017.

Patent Owner describes EX2032 as "Fingolimod, Chemical Abstract Registry No. 162359-55-9." Patent Owner provides no source information or publication date.

Patent Owner describes EX2033 as "2-amino-2-[2-(4-octylphenyl)ethyl]propane-1,3-diol;hydrochloride, Chemical Abstract Registry No. 162359-56-0." Patent Owner provides no source information or publication date.

Patent Owner describes EX2048 as "Park et al. 'Peripheral Blood FTY720 Pharmacokinetic/Pharmacodynamic (PK/PD) Modeling in Renal Transplanted Recipients,' Abstract #707, Kidney: Pharmacogenetics, Kinetics and New Drug, p. 333-334." Patent Owner provides no source information or publication date.

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