

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARGENTUM PHARMACEUTICALS, LLC
Petitioner

v.

ALCON RESEARCH LIMITED
Patent Owner

U.S. Patent No. 8,268,299

Inter Partes Review Case No. 2017-01053

**PETITIONER OBJECTIONS TO EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Argentum Pharmaceuticals LLC (“Argentum”) submits the following objections to the evidence/exhibits identified by Exhibit Number below, which were served by Patent Owner, Alcon Research, Ltd. (“Alcon”), in conjunction with Patent Owner’s Response (Paper 22). These objections are timely, having been served within five business days of the service of the evidence. 37 C.F.R. § 42.64(b)(1).

Exhibit No.	Federal Rule(s) of Evidence	Objection
1001	802	Inadmissible hearsay, where relied upon for the truth of the matter asserted such as the reported experimental results (<i>e.g.</i> , Ex. 2023 ¶¶96, 102, 103; Ex. 2025 ¶¶30, 35, 38)
1025	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
1026	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2006, ¶¶15-21	802	Inadmissible hearsay to the extent the declarant is relying on statements from another person or source, <i>e.g.</i> , one or more persons from the Formulations Development Group, and/or the cited laboratory notebooks (hearsay within hearsay)
2007, ¶¶13-21	802	Inadmissible hearsay to the extent the declarant is relying on statements from another person or source, <i>e.g.</i> , one or more persons from the Formulations Development Group, and/or the cited laboratory notebooks (hearsay within hearsay)

2008 to 2022	106, 802, 901; 37 CFR §42.65	<p>These exhibits appear to be only excerpts of the referenced notebooks, the entire contents of which should be submitted, in addition to the complete testing results of any test referenced therein, in fairness to the Petitioner under FRE 106.</p> <p>Inadmissible hearsay as to both typed and handwritten entries, to the extent the notebook author(s) is/are not presented for cross-examination.</p> <p>Lack of authentication by a competent witness.</p> <p>Inadequate explanation of how tests performed, relevance of tests in the field, and how the reported data was generated and used</p>
2023, ¶¶56, 64, 67, 96, 102, 103	802	Inadmissible hearsay, as the declarant relies on various cited documents and/or other “out-of-court” statements for the truth of the matter asserted therein.
2025, ¶¶30, 35- 38, 41	802	Inadmissible hearsay, as the declarant relies on various cited documents and/or other “out-of-court” statements for the truth of the matter asserted therein.
2027, ¶¶17-20, 24-25, 27- 30, 33, 38- 39	802	<p>Inadmissible hearsay, as the declarant relies on various cited documents and/or other “out-of-court” statements for the truth of the matter asserted therein.</p> <p>Argentum further objects to the declarant basing his testimony on “interactions with other clinicians” and the like to the extent that such clinicians have not been identified, have not provided declarations in this matter, and have not been made available for cross-examination.</p>
2029, ¶¶11-12, 15, 20, 25- 35, 37-55, 57-60	802	Inadmissible hearsay, as the declarant relies on various cited documents and/or other “out-of-court” statements for the truth of the matter asserted therein.

2031	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2032	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2033	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2034	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2035	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2036	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2037	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2038	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2039	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2040 to 2058	802, 901; 37 CFR §42.65	Inadmissible hearsay, as being relied upon for the truth of the matter asserted Lack of authentication by a competent witness. Inadequate explanation of how the reported data was generated and used
2059	802, 901	Inadmissible hearsay, as being relied upon for the truth of the matter asserted Lack of authentication by a competent witness.
2060	802, 901	Inadmissible hearsay, as being relied upon for the truth of the matter asserted Lack of authentication by a competent witness.

2061	802, 901	Inadmissible hearsay, as being relied upon for the truth of the matter asserted Lack of authentication by a competent witness.
2062	802, 901	Inadmissible hearsay, as being relied upon for the truth of the matter asserted Lack of authentication by a competent witness.
2063	802, 901	Inadmissible hearsay, as being relied upon for the truth of the matter asserted Lack of authentication by a competent witness.
2064	402, 802	Lack of relevance, given date of exhibit Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2065	402, 802	Lack of relevance, given date of exhibit Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2066	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2067	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2068	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2069	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2070	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted
2071	802	Inadmissible hearsay, as being relied upon for the truth of the matter asserted

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