

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ARGENTUM PHARMACEUTICALS LLC  
Petitioners,

v.

ALCON RESEARCH, LTD.,  
Patent Owner

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Case: IPR2017-01053  
U.S. Patent No. 8,268,299

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**DECLARATION OF JOHN C. STAINES, JR. IN SUPPORT OF  
PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE**

**MAY 1, 2018**

Exhibit 1094  
ARGENTUM  
IPR2017-01053

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**I. QUALIFICATIONS**

1. I am a Director and Principal in the Washington, DC office of Navigant Economics, a subsidiary of Navigant Consulting, Inc., an international consulting firm. Navigant Economics provides expertise primarily in economics, finance, public policy, and business strategy. I am knowledgeable in the fields of microeconomics, industrial organization, financial economics, and statistics, and have particular expertise in applying the tools of these disciplines to legal disputes arising in the pharmaceutical and related industries.

2. My educational background includes a B.A. in Economics and M.P.M. in Public Policy from the University of Maryland and an M.B.A. in Business Economics and Finance from the University of Chicago. Since 1984, I have worked as a consultant on economic, financial, statistical, and general business issues arising in commercial litigation disputes. My work primarily has involved analyzing competitive issues and estimating commercial damages associated with various types of legal and regulatory matters, most often relating to the pharmaceutical industry. I previously have been accepted as an expert witness in Federal Court and before the Patent Trial and Appeal Board to opine on economic

issues arising in pharmaceutical-related patent and antitrust litigation. A copy of my curriculum vitae is included as Appendix A to this report.

3. Navigant Economics is being compensated for the work I perform in connection with this case at my standard hourly rate of \$535. Part of the work underlying this report was performed by staff of Navigant Economics working under my direction. Payment of fees to Navigant Economics associated with work performed on this matter is not contingent upon or in any way affected by the nature of my opinions or the outcome of this litigation.

## **II. OBJECTIVES**

4. I have been retained by the Petitioners in this matter, Argentum Pharmaceuticals LLC (“Argentum”) to render independent expert opinions concerning evidence presented by Patent Owner, Alcon Research, Ltd. (“Alcon”), regarding the existence and sources of any commercial success that may be associated with the glaucoma treatment, Travatan Z<sup>®</sup>, as they may relate to the obviousness of the technology claimed by U.S. Patent Number 8,268,299 (the “’299 patent”), entitled “Self-Preserved Aqueous Pharmaceutical Compounds,”<sup>1</sup> Patent Owner markets Travatan

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<sup>1</sup> Exhibit 1001.

Z<sup>®</sup> in the United States,<sup>2</sup> which it claims to be the “commercial embodiment of the invention claimed in the ’299 patent.”<sup>3</sup> On March 10, 2017, Argentum petitioned the Patent Trial and Appeal Board (“PTAB”) to institute an *inter partes* review of the validity of claims 1 to 28 of the ’299 patent,<sup>4</sup> which the PTAB did institute on September 22, 2017.<sup>5</sup>

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<sup>2</sup> Exhibit 2061, p. 53.

<sup>3</sup> Argentum Pharmaceuticals LLC v. Alcon Research Ltd., U.S. Patent and Trademark Office, Patent Trial and Appeals Board, IPR2017-01053, Patent Owner Response Alcon Research, Ltd.’s Response, December 22, 2017, p. 54.

<sup>4</sup> Argentum Pharmaceuticals LLC v. Alcon Research Ltd., U.S. Patent and Trademark Office, Patent Trial and Appeals Board, IPR2017-01053, Petition for *Inter Partes* Review, March 10, 2017, pp. 1-2.

<sup>5</sup> Argentum Pharmaceuticals LLC v. Alcon Research Ltd., U.S. Patent and Trademark Office, Patent Trial and Appeals Board, IPR2017-01053, Decision, Institution of *Inter Parties* Review, September 22, 2017, pp. 17-18.

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