

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICRO LABS LIMITED AND MICRO LABS USA INC.
Petitioners,

v.

SANTEN PHARMACEUTICAL CO., LTD. AND ASAHI GLASS CO., LTD.
Patent Owners.

Case IPR2017-01434
U.S. Patent No. 5,886,035

PATENT OWNERS' OBJECTIONS TO EVIDENCE

PURSUANT TO 37 C.F.R. § 42.64(b)(1)

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owners Santen Pharmaceutical Co., Ltd. (“Santen”) and Asahi Glass Co., Ltd. (“AGC”) (together, “Patent Owners”) hereby file these objections to evidence submitted by Petitioners Micro Labs Limited and Micro Labs USA Inc. (together, “Petitioners”) in connection with their Petition for *Inter Partes Review* of U.S. Patent No. 5,886,035 (“the ’035 Patent”), Case No. IPR2017-01434.

Exhibit 1006 (JP-A-7070054 to Ueno Japan *et al.*)

Patent Owners object to this exhibit in that the certification included in the exhibit is not an “affidavit” as required by 37 C.F.R. § 42.63(b) and as defined by 37 C.F.R. § 42.2. Patent Owners further object to this exhibit under Fed. R. Evid. 602 in that the certification included in the exhibit does not establish that the signer has personal knowledge concerning the accuracy of the English translation. Patent Owners further object to this exhibit under Fed. R. Evid. 104(b) as any relevance of the exhibit depends on the accuracy of the English translation, and proof sufficient to support a finding that the English translation is accurate has not been introduced. Specifically, the certification included in the exhibit does not establish that the signer is able to assert, based upon personal knowledge or expertise, that the English translation is accurate.

Exhibit 1007 (Bezuglov, V. V. & L. D. Bergelson, “Fluoroprostaglandins – A New Class of Biologically Active Analogues of Natural Prostaglandins” in Lipids of Biological Membranes (L.D. Bergelson, ed., 1982))

Patent Owners object to this exhibit in that the certification included in the exhibit is not an “affidavit” as required by 37 C.F.R. § 42.63(b) and as defined by 37 C.F.R. § 42.2. Patent Owners further object to this exhibit under Fed. R. Evid. 602 in that the certification included in the exhibit does not establish that the signer has personal knowledge concerning the accuracy of the English translation. Patent Owners further object to this exhibit under Fed. R. Evid. 104(b) as any relevance of the exhibit depends on the accuracy of the English translation, and proof sufficient to support a finding that the English translation is accurate has not been introduced. Specifically, the certification included in the exhibit does not establish that the signer is able to assert, based upon personal knowledge or expertise, that the English translation is accurate.

Exhibit 1010 (Stjernschantz, J.W. “From PGF2a-Isopropyl Ester to Latanoprost: A Review of the Development of Xalatan,” *Investig. Ophthalm. & Vis. Sci.* 42(6):1134-1145 (2001))

Patents Owners object to this exhibit under Fed. R. Evid. 401-402 (relevance) and Fed. R. Evid. 403 (confusing, prejudicial, of limited probative

value, waste of time) to the extent it references technology that was not known in the art as of the effective filing date of the claims of the '035 Patent.

Exhibit 1011 (Nixon, D. “Hyperemia in Glaucoma Patients,” (2008) available online at <http://www.medscape.org/viewarticle/577054>)

Patents Owners object to this exhibit under Fed. R. Evid. 401-402 (relevance) and Fed. R. Evid. 403 (confusing, prejudicial, of limited probative value, waste of time) to the extent it references technology that was not known in the art as of the effective filing date of the claims of the '035 Patent.

Exhibit 1012 (PCT/US97/20671 to Klimko *et al.*)

Patents Owners object to this exhibit under Fed. R. Evid. 401-402 (relevance) and Fed. R. Evid. 403 (confusing, prejudicial, of limited probative value, waste of time) to the extent it references technology that was not known in the art as of the effective filing date of the claims of the '035 Patent.

Exhibit 1013 (U.S. Provisional Patent Application No. 60/030,519 to Klimko *et al.*)

Patents Owners object to this exhibit under Fed. R. Evid. 401-402 (relevance) and Fed. R. Evid. 403 (confusing, prejudicial, of limited probative value, waste of time) to the extent it references technology that was not known in the art as of the effective filing date of the claims of the '035 Patent.

Exhibit 1027 (Declaration of Mitchell A. deLong, Ph.D.)

Patent Owners object to this exhibit on the ground that Dr. deLong's testimony relating to Exhibits 1006, 1007, 1010, 1012, and 1013 is inadmissible for the grounds set forth above with respect to the specific exhibits.

These objections are being timely filed and served within 10 business days of the institution of the trial, in accordance with 37 C.F.R. § 42.64(b)(1).

Respectfully submitted,

Dated: December 13, 2017

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