

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICRO LABS LIMITED AND MICRO LABS USA INC.  
Petitioners,

v.

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

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*Inter Partes* Review No. IPR2017-01434  
U.S. Patent No. 5,886,035

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**SUPPLEMENTAL DECLARATION OF MITCHELL A. DELONG, PH.D.**

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I, Mitchell A. deLong, Ph.D., declare as follows:

1. I have been retained by the law firm Pillsbury Winthrop Shaw Pittman LLP (“Pillsbury”) on behalf of Petitioners Micro Labs Limited and Micro Labs USA Inc. (“Micro Labs” or “Petitioners”). I previously submitted a declaration in support of Petitioners’ Petition for *Inter Partes* Review of U.S. Patent No. 5,886,035 Under 35 U.S.C. § 311 and C.F.R. § 42.108 in the above-referenced matter that was executed on May 12, 2017. (Ex. 1027, deLong Decl.)

2. I submit my present declaration in support of Petitioners’ Reply and also in response to the Patent Owner Response (Paper 22), including the two declarations submitted by Dr. Timothy L. Macdonald in support of Patent Owner’s arguments that are dated September 6, 2017 (Ex. 2001) and March 4, 2018 (Ex. 2028). Dr. Macdonald’s declarations do not change my previous opinions and, as I also explain in further detail below, I disagree with the opinions offered by Dr. Macdonald in many respects.

3. For this matter, the compensation that I receive is not dependent on the substance of any of my testimony or opinions nor is it dependent on the outcome of this matter. However, I want to clarify how I am being compensated. I am being billed at a rate of \$420 per hour in connection with my work on this declaration, \$670 per hour for any deposition testimony and \$225 per hour for travel time but do not receiving all of my billings as compensation because a

portion goes to an expert retention service. For instance, I am only receiving \$250 per hour as I reported in my original declaration of the \$420 per hour billed rate in connection with my work on this declaration.

## **I. BACKGROUND AND QUALIFICATIONS**

### **A. Education and Experience**

4. My educational background and relevant experience is summarized in my prior declaration (Ex. 1027). A copy of my curriculum vitae is also attached to my prior declaration as Appendix B.

### **B. Materials Reviewed**

5. In forming my opinions for this matter including my declarations, I rely on my educational background and relevant experience including the training and skills that I have accumulated during the course of my career. I have also reviewed Patent Owner Preliminary Response (Paper 10) and Patent Owner Response (Paper 22) including declarations submitted by both Drs. Macdonald and Fechtner in support of these papers inclusive of the exhibits and articles appended thereto. I have also reviewed the Supplemental Declaration of Aron Rose, M.D. (Ex. 1032) that I understand is also being submitted in support of Petitioner's Reply. An updated list of documents that I have considered while preparing this reply declaration is attached as Appendix A.

## **II. PERSON OF ORDINARY SKILL IN THE ART (POSA)**

6. I understand that Dr. Macdonald has proposed that a POSA "would

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