

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WATSON LABORATORIES, INC.

Petitioner

v.

UNITED THERAPEUTICS CORP.

Patent Owner

Patent No. 9,358,240

Issue Date: June 7, 2016

Title: TREPROSTINIL ADMINISTRATION BY INHALATION

Inter Partes Review No. 2017-01621

**PATENT OWNER REQUEST FOR REHEARING
UNDER 37 C.F.R. § 42.71**

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I. INTRODUCTION

United Therapeutics Corporation (“Patent Owner”) respectfully requests under 37 C.F.R. § 42.71(c) and (d) that the Patent Trial and Appeal Board (“Board”) reconsider one aspect of its Decision Instituting *Inter Partes* Review of U.S. Patent No. 9,358,240 (“the ’240 patent”), entered Jan. 11, 2018 (Paper 10, hereinafter “Decision”). The Decision instituted trial as to whether claims 1–9 of the ’240 patent would have been obvious over Voswinckel, Patton, and Ghofrani. In instituting trial, the Board concluded “that Petitioner has provided a sufficient basis on which to conclude that Ghofrani was the work of another.” Decision, p. 14. The Board misapprehended the legal standard in reaching this conclusion, and Petitioner failed to establish Ghofrani as prior art under the appropriate standard.¹

II. LEGAL STANDARD

A party may request rehearing of a Board institution decision. 37 C.F.R. § 42.71(d). “The request must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in a motion, an opposition, or a reply.” 37 C.F.R. § 42.71(d).

¹ Patent Owner disagrees with other parts of the decision and does not waive or forfeit its right to contest those issues in its Response or on appeal, specifically including the determination under 35 U.S.C. § 315(b), if relief is not granted on this request.

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