

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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WATSON LABORATORIES, INC.  
Petitioner,

v.

UNITED THERAPEUTICS CORP.  
Patent Owner.

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Case IPR2017-01621  
Patent 9,358,240 B2

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Before TONI R. SCHEINER, ERICA A. FRANKLIN, and  
DAVID COTTA, *Administrative Patent Judges*.

COTTA, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceeding  
37 C.F.R. § 42.5

On April 24, 2018, the Supreme Court held that a final written decision under 35 U.S.C. § 318(a) must decide the patentability of all claims challenged in the petition. *SAS Inst., Inc. v. Iancu*, 2018 WL 1914661, at \*10 (U.S. Apr. 24, 2018). In our Decision on Institution, we determined that Petitioner demonstrated a reasonable likelihood that it would establish that at least one of the challenged claims of the '240 patent is unpatentable. Paper 10, 38. Pursuant to the holding in *SAS*, we modify our institution decision to institute on all of the challenged claims and all of the grounds presented in the Petition.

The parties remain free to stipulate to changes in the schedule under the terms of the Scheduling Order. If, after conferring, the parties wish to otherwise change the schedule or submit briefing not set forth in the Scheduling Order, the parties must, within one week of the date of this Order, request a conference call with the panel to seek authorization for such changes or briefing.

In consideration of the foregoing, it is hereby:

ORDERED that, pursuant to 35 U.S.C. § 314(a), we modify our institution decision to include review of all challenged claims and all grounds presented in the Petition;

FURTHER ORDERED that Petitioner and Patent Owner shall confer to determine whether they desire any changes to the schedule or briefing not already permitted under the Scheduling Order, and, if so, request a conference call with the panel to seek authorization for such changes or briefing within one week of the date of this Order.

IPR2017-01621  
Patent 9,358,240 B2

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