

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WATSON LABORATORIES, INC.
Petitioner

v.

UNITED THERAPEUTICS CORP.
Patent Owner

Case : IPR2017-01621
U.S. Patent 9,358,240 B2

Before the Honorable LORA M. GREEN, ERICA A. FRANKLIN, and DAVID
COTTA, *Administrative Patent Judges*.

**PETITIONER'S SECOND SET OF OBJECTIONS
TO PATENT OWNER'S EXHIBITS**

Pursuant to 37 C.F.R. § 42.64(b)(1), the undersigned, on behalf of and acting in a representative capacity for Petitioner Watson Laboratories, Inc., hereby submit the following objections to Patent Owner United Therapeutics Corp.'s ("Patent Owner") Exhibits 2032-2036, 2038-2040, 2048-2053, 2055, 2057-2058, 2061-2063, 2065-2068, 2071-2075, 2081-2090, 2092-2093, 2096, 2098-2102, and 2104, and any reference to/reliance on the foregoing. These objections are in addition to

Petitioner's Objections to Patent Owner's Exhibits dated January 26, 2018, which remain operative and have not been waived. As required by 37 C.F.R § 42.62, Petitioners' objections below apply the Federal Rules of Evidence and are based on currently-applicable law. Petitioner reserves the right to amend or supplement its objections in response to any change in law or fact.

I. OBJECTIONS TO EXHIBIT 2032

Evidence objected to: Exhibit 2032

Grounds for objection: Exhibit 2032, a document titled "Feb. 23, 2018 Conference Call Transcript," is objected to under Fed. R. Evid. 401 and 403. Exhibit 2032 includes statements that do not make any fact relevant to the grounds upon which trial was instituted more or less probable and any facts that might be established based on this exhibit is of no consequence in determining the issues on which trial was instituted. Introduction and evaluation of Exhibit 2032 would further lead to undue delay, confusion, and a waste of time.

II. OBJECTIONS TO EXHIBIT 2033

Evidence objected to: Exhibit 2033

Grounds for objection: Exhibit 2033 is the transcript of the March 28, 2018 Deposition of Dr. Scott Bennett. Pursuant to Board Rules 42.53(f)(4) and 42.53(f)(8), Petitioner relies on the objections made during the deposition and

recorded in Exhibit 2033, which have not been waived. Petitioner reserves the right to file a motion to exclude such testimony.

III. OBJECTIONS TO EXHIBIT 2034

Evidence objected to: Exhibit 2034

Grounds for objection: Exhibit 2034 is the transcript of the April 4, 2018 Deposition of Dr. Maureen Donovan. Pursuant to Board Rules 42.53(f)(4) and 42.53(f)(8), Petitioner relies on the objections made during the deposition and recorded in Exhibit 2034, which have not been waived. Petitioner reserves the right to file a motion to exclude such testimony.

IV. OBJECTIONS TO EXHIBIT 2035

Evidence objected to: Exhibit 2035

Grounds for objection: Exhibit 2035 is the transcript of the April 6, 2018 Deposition of Dr. DeForest McDuff. Pursuant to Board Rules 42.53(f)(4) and 42.53(f)(8), Petitioner relies on the objections made during the deposition and recorded in Exhibit 2035, which have not been waived. Petitioner reserves the right to file a motion to exclude such testimony.

V. OBJECTIONS TO EXHIBIT 2036

Evidence objected to: Exhibit 2036

Grounds for objection: Exhibit 2036, a document titled “Email Correspondence with Petitioner regarding Deposition of Christopher Butler,” is objected to under Fed. R. Evid. 401 and 403. Exhibit 2036 is a discussion between

the parties regarding deposition of a declarant that does not make any fact relevant to the grounds upon which trial was instituted more or less probable and any facts that might be established based on this exhibit is of no consequence in determining the issues on which trial was instituted.

VI. OBJECTIONS TO EXHIBIT 2038

Evidence objected to: Exhibit 2038

Grounds for objection: Exhibit 2038, a document titled “Second Declaration of Dr. Richard Dalby,” is objected to under Fed. R. Evid. 401, 403, 801, and 802. Exhibit 2038 includes statements that do not make any fact relevant to the grounds upon which trial was instituted more or less probable and any facts that might be established based on this exhibit is of no consequence in determining the issues on which trial was instituted. Introduction and evaluation of Exhibit 2038 would further lead to undue delay, confusion, and a waste of time. Exhibit 2038 also contains out-of-court statements made by one or more declarants for the purpose of proving the truth of the matter asserted, and on which Petitioner has not had a chance to cross exam. Introduction and evaluation of Exhibit 2038 would further lead to undue delay, confusion, and a waste of time.

VII. OBJECTIONS TO EXHIBIT 2039

Evidence objected to: Exhibit 2039

Grounds for objection: Exhibit 2039, U.S. Patent No. 4,319,155, is objected to under Fed. R. Evid. 401 and 403. Exhibit 2039 does not make any fact relevant to the grounds upon which trial was instituted more or less probable and any facts that might be established based on this exhibit is of no consequence in determining the issues on which trial was instituted. Introduction and evaluation of Exhibit 2039 would further lead to undue delay, confusion, and a waste of time.

VIII. OBJECTIONS TO EXHIBIT 2040

Evidence objected to: Exhibit 2040

Grounds for objection: Exhibit 2040, a document titled “Declaration of Dr. Aaron Waxman,” is objected to under Fed. R. Evid. 401, 403, 801, and 802. Exhibit 2040 includes statements that do not make any fact relevant to the grounds upon which trial was instituted more or less probable and any facts that might be established based on this exhibit is of no consequence in determining the issues on which trial was instituted. Introduction and evaluation of Exhibit 2040 would further lead to undue delay, confusion, and a waste of time. Exhibit 2040 also contains out-of-court statements made by one or more declarants for the purpose of proving the truth of the matter asserted, and on which Petitioner has not had a chance to cross exam.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.