

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. 9,339,507

Issue Date: May 17, 2016

Title: TREPROSTINIL ADMINISTRATION BY INHALATION

Inter Partes Review No. 2017-01622

SUPPLEMENTAL PATENT OWNER RESPONSE

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B.	The EU Community Register was not publicly accessible.	8
IV.	PETITIONER HAS NOT ESTABLISHED OBVIOUSNESS OVER GROUND 2 OR GROUND 3.	9
A.	Ground 2	10
1.	A POSA would not have been motivated to combine Voswinckel, Chaudry, the OptiNeb-ir Manual, and Patton to achieve limitations [B] or [B1].	10
2.	A POSA would not have been motivated to combine Voswinckel and the OptiNeb-ir Manual to achieve limitations [B2], [C], or [D] or the limitations of claims 4-6.	13
B.	Ground 3	17
1.	A POSA would not have been motivated to combine Voswinckel and the EU Community Register to achieve limitations [B] or [B1].	17
2.	A POSA would not have had a reasonable expectation of success in combining Chaudry, the EU Community Register and Ghofrani regarding limitations [B2], [C], or [D].	20

C. Dr. Donovan’s testimony lacks credibility and relies on information outside the record.21

D. The objective indicia of non-obviousness weigh in favor of patentability.23

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TABLE OF AUTHORITIES

CASES

Adobe Systems Inc v. William Grecia, IPR2018-00418 (PTAB June 21, 2018).....8

Blue Calypso, LLC v. Groupon, Inc., 815 F.3d 1331 (Fed. Cir. 2016)3, 6

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In re Cronyn, 890 F.2d 1158 (Fed. Cir. 1989).....6

In re Lister, 583 F.3d 1307 (Fed. Cir. 2009)3

SAS Institute Inc. v. Iancu, 584 U.S. ____ (2018)1

Zetec, Inc. v. Westinghouse Elec. Co., IPR2014-00384 (PTAB July 23, 2014)10, 17

RULES

37 C.F.R. § 42.10810

37 C.F.R. § 42.63(b)5

EXHIBIT LIST

Exhibit No.	Description
2001	Declaration of Dr. Richard Dalby
2002	<i>Oxford Dictionary of English</i> . 2 nd ed. Revised. Oxford University Press, 2005 (excerpt).
2003	Newman, Stephen P. <i>Respiratory drug delivery: essential theory and practice</i> . Respiratory Drug Delivery Online, 2009 (excerpt).
2004	Hill, N., <i>Therapeutic Options for the Treatment of Pulmonary Hypertension</i> , Medscape Pulmonary Medicine 9(2) (2005).
2005	Exhibits Accompanying First Declaration of Dr. Roham Zamanian and Amendment and Reply filed in 12/591,200 (Nov. 9, 2015) (Ex. 1162)
2006	Declaration of Dr. Edmund Elder and Exhibits Accompanying Second Declaration of Dr. Roham Zamanian Amendment and Reply filed in 12/591,200 (Feb. 2, 2016) (Ex. 1163)
2007	Finlay, Warren H. <i>The Mechanics of Inhaled Pharmaceutical Aerosols: an Introduction</i> . Academic Press, 2002 (excerpt).
2008	“Mechanical Ventilation.” <i>American Journal of Respiratory and Critical Care Medicine</i> 196(2):P3-4 (2017).
2009	Motion for Leave to File An Amended Complaint and Exhibits Filed in Civil Action No: 3:15-cv-05723 PGS-LHG
2010	Email Correspondence to Watson’s Counsel Serving Motion for Leave to File An Amended Complaint and attached Exhibits (Ex. 2009).
2011	Consent Order Entering Motion for Leave to File An Amended Complaint in Civil Action No: 3:15-cv-05723 PGS-LHG
2012	Orange Book Listing for Tyvaso® (Accessed October 3, 2017)
2013	First Notice Letter Sent June 12, 2015 by Watson Regarding Orange Book Listed Tyvaso® Patents
2014	Issue Notifications for US Patent No. 9,399,507 and US Patent No. 9,358,240
2015	FDA Form 3542, Listing US Patent No. 9,399,507 in Orange Book
2016	FDA Form 3542, Listing US Patent No. 9,358,240 in Orange Book
2017	Email Correspondence between United Therapeutics and Watson Regarding Proposed Schedule for Civil Action No: 3:15-cv-05723 PGS-LHG in view of US Patent No. 9,399,507 and US Patent No. 9,358,240

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