

IPR2017-01648
U.S. Patent No. 6,866,866

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Aurobindo Pharma USA Inc.

Petitioners,

v.

Andrx Labs, LLC

Patent Owners

Case No.: IPR2017-01648

United States Patent No. 6,866,866

**PETITIONER'S REPLY TO
PATENT OWNER'S RESPONSE**

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I. INTRODUCTION

A. The Limited Grounds of this Case

By a Joint Motion to Limit the Petition (Paper 22), and the order granting the same by the Board (Paper No. 23), this *inter partes* review of U.S. Patent No. 6,866,866 (the “866 patent”) is now limited to Ground 3, obviousness of claims 1-25 over WO 99/47128 to Timmins ("Timmins") and WO 99/4715 to Cheng ("Cheng") as set forth in Paper No. 12, Ground of Institution.

B. Patent Owner's Unsupportable Attack on the Expertise of Dr. Akhlaghi

As a diversion to distract attention from the fundamental weakness of Patent Owner's substantive validity arguments ("PO"), PO engages in a baseless attempt to unfairly disparage Dr. Akhlaghi's ("Akhlaghi") expertise, including by selectively and misleadingly citing to isolated snippets of her testimony taken out of context, elicited during a deposition in which PO's counsel badgered her by repetitively reframing the same basic line of questioning over and over again, to attempt to twist her answers.

For example, PO urges that Akhlaghi "concedes that she is not an expert formulation development" to argue a "lack of expertise in this area undercut[ing] the value of her opinions" (Paper 25, 14:11–15:2)(ignoring that the standard to be applied is a "person of ordinary skill in the art," not an expert). For this

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