

Case IPR2017-00900

Declaration of Diane J. Burgess, Ph.D. Under 37 C.F.R. § 1.68 in Support of
Petition for *Inter Partes* Review of U.S. Patent No. 8,329,680

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INNOPHARMA LICENSING, LLC,
Petitioner

v.

ASTRAZENECA AB,
Patent Owner

Case IPR2017-00900
Patent No. 8,329,680

DECLARATION OF DIANE J. BURGESS, Ph.D., UNDER 37 C.F.R. § 1.68
IN SUPPORT OF PETITION FOR *INTER PARTES* REVIEW OF U.S.
PATENT NO. 8,329,680

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TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. BACKGROUND AND QUALIFICATIONS.....	7
III. MATERIALS CONSIDERED FOR THIS DECLARATION	13
IV. BACKGROUND	13
A. Overview of the '680 Patent	13
B. Prosecution History of the '680 Patent.....	16
i. The Sawchuk Declaration	18
ii. The Gellert Declaration.....	20
V. LEVEL OF ORDINARY SKILL IN THE PERTINENT ART	23
VI. BROADEST REASONABLE CONSTRUCTION.....	24
VII. UNDERSTANDING OF THE LAW	25
VIII. TECHNICAL OVERVIEW OF THE ASPECTS OF FORMULATION SCIENCE RELEVANT TO MY OPINIONS.....	29
IX. DETAILED INVALIDITY ANALYSIS.....	33
A. Summary of Opinions	34
B. Primary Prior Art Relied on in this Declaration	37
i. Howell 1996.....	37
ii. McLeskey 1998	40
iii. O'Regan	43
iv. DeFriend	45

C.	Ground 1: The Challenged Claims are Obvious Over Howell 1996	45
	
i.	A Person of Ordinary Skill in the Art Would Have Been Motivated by the Results in Howell 1996 to Develop a Formulation to Achieve Those Results	45
ii.	A Person of Ordinary Skill in the Art Would Have Had a Reasonable Expectation of Success in Developing a Formulation to Achieve the Pharmacokinetic Results Reported in Howell 1996 by Routine Experimentation	49
iii.	The Precise Amounts of the Formulation Recited in the Claims are the Result of Routine Experimentation	58
iv.	A Person Of Skill in the Art Would Not Have Been Motivated to Formulate Fulvestrant Using Alternative Routes of Administration	60
v.	Each Element of the Challenged Claims is rendered Obvious by Howell 1996	68
D.	Ground 2: The Challenged Claims are Obvious Over the Combination of Howell 1996 and McLeskey 1998	76
	
i.	A Person of Ordinary Skill in the Art Would Have Been Motivated to Combine Howell 1996 and McLeskey 1998	76
ii.	A Person of Ordinary Skill in the Art Would Have Had a Reasonable Expectation of Success in Following the McLeskey 1998 Castor Oil-Based Formulation to Achieve the Pharmacokinetic Results Reported in Howell 1996	82
iii.	Dr. Illum’s Argument that it Was Unknown Whether the Castor Oil-Based Formulations Used in Howell 1996 and McLeskey 1998 Were Solutions or Suspensions is Irrelevant and Mistaken	87
iv.	Dr. Sawchuk’s Criticisms of the McLeskey 1998 Reference are Mistaken and Contradict Dr. Gellert’s Declaration	90

v.	The Combination of Howell 1996 and McLeskey 1998 Teaches Each Element of the Challenged Claim	102
E.	Ground 3: The Challenged Claims are Obvious Over the Combination of Howell 1996, McLeskey 1998, and O’Regan	106
i.	A Person of Ordinary Skill in the Art Would Have Been Motivated to Combine Howell 1996, McLeskey 1998, and O’Regan	106
ii.	O’Regan Confirms that a Person of Ordinary Skill in the Art Would Have Had a Reasonable Expectation of Success in Administering the McLeskey 1998 Castor Oil-Based Formulation Intramuscularly to Humans to Achieve the Pharmacokinetic Results Reported in Howell 1996	107
iii.	The Combination of Howell 1996, McLeskey 1998, and O’Regan Teaches Each Element of the Challenged Claim	109
iv.	The Combination of Howell 1996, McLeskey 1998, O’Regan, and DeFriend Teaches Each Element of Claims 2 and 6	116
F.	Secondary Considerations Do Not Overcome the Prima Facie Case of Obviousness	118
X.	SUPPLEMENTATION.....	124
XI.	CONCLUSION	124

I, Diane J. Burgess, Ph.D. hereby declare as follows:

I. INTRODUCTION

1. I have been retained as an expert witness on behalf of InnoPharma, LLC (“InnoPharma”) for the above-captioned Petition for *Inter Partes* Review (“IPR”) of U.S. Patent No. 8,329,680 (“the ’680 patent” or “the patent”).

2. I have been asked to provide my opinions on the validity of claims 1, 2, 3, and 6 of the ’680 patent (“the challenged claims”).

3. In preparing this Declaration, I have reviewed the ’680 patent, the file history of the ’680 patent, and the file histories of the following related patents: U.S. Patent Nos. 8,466,139 (“the ’139 patent”), 7,456,160 (“the ’160 patent”), and 6,774,122 (“the ’122 patent”). I have also reviewed the petition for *inter partes review* of the ’680 patent filed by Mylan Pharmaceuticals, Inc. (IPR2016-01325) (“Mylan IPR”), the supporting declarations and exhibits, the Patent Owner’s Response to that Petition, the supporting declarations and exhibits, and the Board’s decision denying institution of *inter partes review* on the ’680 patent (IPR2016-01325, paper 11). In addition, I have reviewed numerous prior art references that would have been available to one skilled in the art before the time of the alleged invention.

4. I have been advised and it is my understanding that patent claims in an IPR are given their broadest reasonable construction in view of the patent

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