

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INITIATIVE FOR MEDICINES, ACCESS & KNOWLEDGE (I-MAK), INC.
Petitioner

v.

GILEAD PHARMASSET LLC
Patent Owner

Case No. IPR2018-00121
U.S. Patent No. 8,334,270

PETITION FOR *INTER PARTES* REVIEW

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I. INTRODUCTION

Initiative for Medicines, Access & Knowledge (I-MAK), Inc. (“Petitioner”) requests *inter partes* review (“IPR”) of claims 1, 2, 10-18 and 20-25 of United States Patent No. 8,334,270 to Sofia et al. (“the ‘270 patent”; EX1001) under the provisions of 35 U.S.C. § 311, § 6 of the Leahy-Smith America Invents Act (“AIA”), and 37 C.F.R. § 42.100 et seq. The ‘270 patent issued on December 18, 2012, and is currently assigned to Gilead Pharmasset LLC (“Patent Owner”). This petition demonstrates that claims 1, 2, 10-18 and 20-25 of the ‘270 patent are unpatentable.

The ‘270 patent claims pharmaceutical compounds, compositions and methods that were already known and obvious in light of the prior art. Specifically, the ‘270 claims a specific prodrug form of a specific nucleoside compound, but that prodrug form of the nucleoside was already known as a result of being previously published at a scientific conference. In addition, the prodrug technique used by Patent Owner was entirely conventional and the nucleoside compound to which Patent Owner applied the prodrug technique had been previously disclosed (and patented) by Patent Owner years before. Taking a known prodrug approach and applying it to a known nucleoside is not an invention. It’s obvious.

Thus, claims 1, 2, 10-18 and 20-25 of the ‘270 patent are unpatentable and should be cancelled.

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