

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CATALENT PHARMA SOLUTIONS, INC.,
Petitioner,

v.

PATHEON SOFTGELS INC.,
Patent Owner.

Case IPR2018-00421
Patent 9,693,978

**PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 9,693,978**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	GROUND FOR STANDING (37 C.F.R. § 42.104(A))	1
III.	MANDATORY REQUIREMENTS, NOTICES AND FEES	1
	A. Real Party-In-Interest (35 U.S.C. § 312(a)(2) and 37 C.F.R. § 42.8(b)(1))	1
	B. Related Matters (37 C.F.R. §42.8(b)(2))	1
	C. Lead and Back-Up Counsel (37 C.F.R. §42.8(b)(3)) and Service Information (37 C.F.R. §42.8(b)(4))	2
	D. Power of Attorney (37 C.F.R. §42.10(b))	3
	E. Petition Fees (35 U.S.C. § 312(a)(1) and 37 C.F.R. §§ 42.15 and 42.103)	3
	F. Proof of Service (37 C.F.R. §§ 42.6(e) and 42.105(a))	3
IV.	STATEMENT OF THE PRECISE RELIEF REQUESTED (37 C.F.R. §§ 42.22(A)(1) AND 42.104(B)(2))	3
V.	TECHNOLOGY BACKGROUND	5
VI.	RELEVANT INFORMATION CONCERNING THE CONTESTED PATENT	6
	A. The '978 Patent	6
	B. Brief Summary of the Prosecution History of the '978 Patent	7
	C. Issued Claims	8
	D. Person of Ordinary Skill in the Art	10
	E. Construction of Terms Used in the Claims	11
	1. “about 5%”	12
	2. “fill material”	13
	F. Summary of Expert Declaration of Peter Draper	15
VII.	THERE IS A REASONABLE LIKELIHOOD THAT AT LEAST ONE CLAIM OF THE '978 PATENT IS UNPATENTABLE UNDER 37 C.F.R. §42.104(B)(4)	16

A.	Ground 1: Claims 1-38 are invalid under 35 U.S.C. § 102 as anticipated by, or 35 U.S.C. § 103 as obvious in view of, U.S. Patent No. 6,383,471 to Chen.	17
B.	Ground 2: Claims 1-38 are invalid under 35 U.S.C. § 103 as obvious in view of U.S. Publication No. 20040157928 to Kim, alone or in combination with U.S. Patent No. 6,383,471 to Chen.	35
1.	Claims 1-38 are invalid under 35 U.S.C. § 103 as obvious in view of U.S. Publication No. 20040157928 to Kim alone.....	35
2.	Claims 1-38 are invalid under 35 U.S.C. § 103 as obvious in view of U.S. Publication No. 20040157928 to Kim in view of U.S. Patent No. 6,383,471 to Chen	37
C.	Ground 3: Claims 1-38 are invalid under 35 U.S.C. § 102 as anticipated by, or under 35 U.S.C. § 103 as obvious in view of, U.S. Publication No. 20040224020 to Schoenhard.	49
VIII.	CONCLUSION	59

TABLE OF AUTHORITIES

Cases

Chore-Time Equipment, Inc. v. Cumberland Corp.,
713 F.2d 774 (Fed. Cir. 1983)11

KSR Int’l Co. v. Teleflex, Inc.,
550 U.S. 398, 127 S.Ct. 1727 (2007)59

Okajima v. Bourdeau,
261 F.3d 1350 (Fed. Cir. 2001)11

EXHIBIT LIST

Exhibit No.	Description	Issue or Publication Date
1001	Declaration of Peter Draper	
1002	Curriculum Vitae of Peter Draper	
1003	U.S. Patent No. 9,693,978	July 4, 2017
1004	Prosecution History of U.S. Patent No. 9,693,978 (App. No. 60/659,679)	
1005	Prosecution History of U.S. Patent No. 9,693,978 (App. No. 11/367,238)	
1006	Prosecution History of U.S. Patent No. 9,693,978 (App. No. 14/977,808)	
1007	Prosecution History of EP 1863458 (Counterpart of U.S. Patent No. 9,693,978)	
1008	Prosecution History of U.S. Patent No. 9,693,979 (App. No. 15/159,972)	
1009	U.S. Patent No. 6,383,471 (“Chen”)	May 7, 2002
1010	U.S. Publication No. 20040157928 (“Kim”)	August 12, 2004
1011	U.S. Publication No. 20040224020 (“Schoenhard”)	November 11, 2004
1012	U.S. Patent No. 5,141,961 (“Coapman”)	August 25, 1992
1013	U.S. Patent No. 5,641,512 (“Cimileuca”)	December 27, 1994
1014	U.S. Patent No. 5,360,615 (“Yu”)	November 1, 1994
1015	U.S. Patent No. 6,383,515 (“Sawyer”)	May 7, 2002

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.