

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CATALENT PHARMA SOLUTIONS, INC.  
Petitioner

v.

PATHEON SOFTGELS INC.  
Patent Owner

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Case IPR2018-00422  
Patent 9,693,979

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**PATENT OWNER'S PRELIMINARY RESPONSE  
UNDER 37 C.F.R. § 42.107(a)**

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

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Patent Owner Patheon Softgels Inc. (“Patheon”) provides this Preliminary Response to the Petition for *inter partes* review (“IPR”) of claims 1-19 of U.S. Patent No. 9,693,979 (“the ’979 Patent”; EX1003) filed by Petitioner Catalent Pharma Solutions, Inc. (“Catalent”).

## I. Introduction

Catalent is attempting to knock out Patheon’s claims protecting novel and commercially successful softgel capsule naproxen formulations. But to even be instituted, a petition for *inter partes* review must meet its burden to establish a reasonable likelihood that it could prevail against at least one challenged claim—a requirement that Catalent’s petition fails to meet because it neither complies with the Board’s filing requirements under 37 C.F.R. § 42.104 nor addresses key elements of anticipation and obviousness necessary to prevail on the merits.

Catalent’s Petition fails to comply with the Board’s filing requirements on several levels. *First*, the Petition does not identify the challenged claims with particularity, but instead presents a vague and conclusory series of attorney arguments. *See* 37 C.F.R. § 42.104(b). *Second*, the grounds in the Petition each include an alternative argument, essentially doubling the number of asserted grounds, and the Petition fails to explain Catalent’s reasoning behind the multiple

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