

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.,
Petitioner,

v.

SANOFI-AVENTIS DEUTSCHLAND GMBH,
Patent Owner.

Case No. IPR2018-01675
Patent No. 8,603,044

PETITIONER MYLAN'S MOTION TO CORRECT
37 CFR §42.104(c)

1. Statement of requested relief

Petitioner (“Mylan”) requests correction of the petition (Paper 2) at page 25 to reflect that the citation “EX1011, ¶165; cf. EX1002, 3:42-44 (describing threads may include part threads).” should read “EX1011, ¶165; cf. EX1002, 3:62-64 (describing threads may include part threads).” That is, the “42-44” should be “62-64”. Mylan believes that the accompanying exhibit (EX1037) provides adequate clarification for the record, but will submit a corrected petition if the Board prefers.

2. Reasons for relief

This motion is timely filed pursuant to an email authorization from Andrew Kellogg. 37 CFR §42.2(“Board”)(1). The petition contains a typographical error that substitutes “42-44” for “62-64”. The accompanying parenthetical and textual context make the nature of the error self-evident: the citation identifies a sentence “In the illustrated embodiment the second thread 24 comprises a series of part threads rather than a complete thread.” in EX1002 (the involved patent of Patent Owner (“Sanofi”)) to support a discussion of a discontinuous helical rib in the petition. Mylan regrets the error, but does not believe citing the wrong lines in the correct column for parenthetically described text in Sanofi’s own patent creates any significant prejudice for Sanofi. Pursuant to the Board’s instruction (EX1036, 16:14-17-7), the parties conferred on filing a correction exhibit or paper, but despite discussing a variety of options could not agree on the scope of Sanofi’s

response to the correction. To the extent a further Sanofi response to the correction is deemed appropriate, the Board can set its own limits on the response.

3. Conclusion

Mylan requests the Board to grant this motion and accept EX1037 as sufficient correction of the petition.

Date: 30 January 2019

/ Richard Torczon /
Richard Torczon, Lead Counsel
Reg. No. 34,448

UPDATED EXHIBIT LIST

<u>Exhibit No.</u>	<u>Description</u>
1001	U.S. Patent 8,679,069, <i>Pen-Type Injector</i> (issued Mar. 25, 2014)
1002	U.S. Patent 8,603,044, <i>Pen-Type Injector</i> (issued Dec. 10, 2013)
1003	U.S. Patent 8,992,486, <i>Pen-Type Injector</i> (issued Mar. 31, 2015)
1004	U.S. Patent 9,526,844, <i>Pen-Type Injector</i> (issued Dec. 27, 2016)
1005	U.S. Patent 9,604,008, <i>Drive Mechanisms Suitable for Use in Drug Delivery Devices</i> (issued Mar. 28, 2017)
1006	File History for U.S. Patent 8,679,069
1007	File History for U.S. Patent 8,603,044
1008	File History for U.S. Patent 8,992,486
1009	File History for U.S. Patent 9,526,844
1010	File History for U.S. Patent. 9,604,008
1011	Expert Declaration of Karl Leinsing MSME, PE in Support of Petition for <i>Inter Partes</i> Review of U.S. Patent Nos. 8,679,069; 8,603,044; 8,992,486; 9,526,844 and 9,604,008

<u>Exhibit No.</u>	<u>Description</u>
1012	<i>Curriculum Vitae</i> of Karl Leinsing MSME,PE
1013	U.S. Patent 6,221,046 - A. Burroughs et al., “Recyclable Medication Dispensing Device” (issued Apr. 24, 2001)
1014	U.S. Patent 6,235,004 – S. Steinfeldt-Jensen & S. Hansen, “Injection Syringe” (issued May 22, 2001)
1015	U.S. Patent Application US 2002/0053578 A1 – C.S. Møller, “Injection Device” (pub’d May 2, 2002)
1016	U.S. Patent 6,932,794 B2 – L. Giambattista & A. Bendek, “Medication Delivery Pen” (issued Aug. 23, 2005)
1017	U.S. Patent 6,582,404 B1 – P.C. Klitgaard et al., “Dose Setting Limiter” (issued June 24, 2003)
1018	File History for U.S. Patent 6,582,404
1019	Plaintiffs’ Preliminary Claim Constructions and Preliminary Identification of Supporting Intrinsic and Extrinsic Evidence, <i>Sanofi-Aventis U.S. LLC v. Mylan GmbH</i> , No. 2:17-cv-09105 (D.N.J.) (filed Sep. 5 2018)
1020	U.S. Patent 4,865,591 – B. Sams, “Measured Dose Dispensing Device” (issued Sep. 12, 1989)
1021	U.S. Patent 6,248,095 B1 – L. Giambattista et al., “Low-cost Medication Delivery Pen” (issued June 19, 2001)

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