

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALVOGEN PINE BROOK LLC

Petitioner,

v.

CELGENE CORP.

Patent Owner

Case No. UNASSIGNED
Patent 7,968,569

DECLARATION OF DR. GUIDO TRICOT IN SUPPORT OF
PETITION FOR *INTER PARTES* REVIEW OF CLAIMS 1-15
OF U.S. PATENT NO. 7,968,569

Declaration of Dr. Guido Tricot in Support of
Petition for *IPR* of U.S. Patent No. 7,968,569

TABLE OF CONTENTS

I.	BACKGROUND AND QUALIFICATIONS.....	1
II.	LEGAL UNDERSTANDING.....	3
	A. Obviousness.....	3
	B. Claim Construction.....	7
III.	THE RELEVANT ART.....	9
IV.	OVERVIEW OF THE '569 PATENT.....	14
	A. The Claims of the '569 Patent.....	14
	B. The Effective Filing Date of the '569 Patent Can Be No Earlier Than November 6, 2002.....	16
V.	CLAIM CONSTRUCTION.....	20
VI.	LEVEL OF ORDINARY SKILL IN THE ART.....	20
VII.	SUMMARY OF THE PRIOR ART.....	21
	A. Thalidomide and Thalidomide Analogs (IMiDs).....	21
	B. Multiple Myeloma and Thalidomide.....	29
	C. Multiple Myeloma and IMiDs.....	33
	D. A POSA Would Understand that “Revimid” is Lenalidomide.....	39
	E. Drug Cycling in Cancer Treatments.....	41
	F. A POSA Exercising Reasonable Diligence Would Have Located the Relevant Art.....	45
VIII.	THERE IS A REASONABLE LIKELIHOOD THAT THE CHALLENGED CLAIMS ARE UNPATENTABLE.....	46

Declaration of Dr. Guido Tricot in Support of
Petition for *IPR* of U.S. Patent No. 7,968,569

A.	Ground 1: The Combination of Palumbo, the May Press Release, and the August Press Release Renders Claims 1-15 Obvious.....	46
B.	Ground 2: Palumbo, Hideshima, and the '230 Patent.....	58
C.	Secondary Considerations	75
IX.	CONCLUSION	80

Declaration of Dr. Guido Tricot in Support of
Petition for *IPR* of U.S. Patent No. 7,968,569

Declaration of Guido Tricot

I, Guido Tricot, declare as follows:

1. I make this declaration based on my own personal knowledge and, if called upon to testify, would testify competently to the matters contained herein.
2. I have been asked to provide technical assistance in the *inter partes* review of U.S. Patent No. 7,968,569 (“the ’569 Patent”).
3. This declaration is a statement of my opinions on issues related to the unpatentability of claims 1-15 of the ’569 Patent.

I. BACKGROUND AND QUALIFICATIONS

4. In forming my opinions, I have relied upon my knowledge, training, and experience in the relevant art.
5. I am currently a Professor Emeritus at the University of Iowa Hospitals and Clinics. Until July 2017, I was the Gary D. Arthur Professor of Adult Bone Marrow Transplantation, Department of Internal Medicine, Division of Hematology, Oncology, and Blood & Marrow Transplantation at the University of Iowa Hospitals and Clinics. In my practice, I treated patients with hematological conditions, in particular, those with multiple myeloma (>85%). As part of treatment, I administered therapeutic agents to my patients. I also perform research to help develop treatments for patients with these conditions, including the development of drug regimens and dosing schedules.

Declaration of Dr. Guido Tricot in Support of
Petition for *IPR* of U.S. Patent No. 7,968,569

6. I completed my MD from the University of Leuven in Belgium in 1975, and a Ph.D. in 1983 from the same university during which I studied the biology of myelodysplastic syndromes. I was hired to the faculty of the University of Leuven in 1980 and since that time have held faculty positions at Indiana University, the University of Arkansas for Medical Sciences, the University of Utah School of Medicine, and the University of Iowa Hospitals and Clinics.

7. I have been an author on over 300 peer reviewed publications related to the treatment of multiple myeloma and other hematological conditions, as well as an author of over 250 abstracts, book chapters, and other non-peer reviewed publications. I serve on the editorial boards of *Bone Marrow Research*, *Leukemia*, the *Journal of Blood and Lymph*, the *Journal of Cancer Therapy*, and the *Journal of Hematology and Thrombosis*. I also review manuscripts for several additional journals, including the *American Journal of Hematology*, *Blood*, the *British Journal of Haematology*, *Cancer Cell*, the *Journal of Clinical Oncology*, *Lancet*, the *New England Journal of Medicine*, and the *Proceedings of the National Academy of Sciences*.

8. My qualifications and experience are stated more fully in my curriculum vitae attached as Ex. A.

9. I am being compensated by Alvogen at the rate of \$500 per hour for my work in this matter, including time spent testifying. This rate is my standard

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.