

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT AND TRIAL APPEAL BOARD

APOTEX INC.,
Petitioner,

v.

UCB BIOPHARMA SPRL,
Patent Owner.

Case IPR2019-00400
Patent 8,633,194 B2

Record of Oral Hearing
Held Virtually: Wednesday, April 22, 2020

Before ROBERT A. POLLOCK, RYAN H. FLAX, and
KRISTIL R. SAWERT, *Administrative Patent Judges*.

Case IPR2019-00400
Patent 8,633,194 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

JITENDRAMALIK, ESQUIRE
ALISSA PACCHIOLI, ESQUIRE
JOSEPH JANUSZ, ESQUIRE
KATTEN MUCHIN ROSENMAN LLP
550 S. Tryon Street, Suite 2900
Charlotte, NC 28202

LANCE SODERSTROM, ESQUIRE
KATTEN MUCHIN ROSENMAN LLP
575 Madison Avenue, Suite 14
New York, NY 10022

ON BEHALF OF THE PATENT OWNER:

ROBERT COUNIHAN, ESQUIRE
ERICA SUTTER, ESQUIRE
FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041

JAMES TRAINOR, ESQUIRE
FENWICK & WEST LLP
902 Broadway, Suite 14
New York, NY 10010

The above-entitled matter came on for hearing on Wednesday, April 22, 2020, commencing at 1:00 p.m. EST, by video/by telephone.

1 PROCEEDINGS

2 JUDGE POLLOCK: Good afternoon. This is
3 the final hearing in IPR2019-00400 regarding
4 Claims 1 through 11 of U.S. Patent Number
5 8,633,194 B2.

6 Petitioner is Apotex, Incorporated.
7 Patent owner is UCB Biopharma Sprl.

8 This hearing is open to the public, and a
9 full transcript of the hearing
10 will be made part of the record.

11 I'm Judge Pollock. With me are Judges
12 Flax and Sawert.

13 Counsel for Petitioner Apotex, would you
14 kindly identify yourself and any colleagues on the
15 line.

16 MR. MALIK: Good afternoon, your Honors.
17 This is Jitendra Malik, counsel, Apotex. With
18 me -- with me are Lance Soderstrom, Joe Janusz,
19 Alissa Pacchioli, and also Dipu Mukherjee and the
20 client, Olga Kalinina.

21 JUDGE POLLOCK: Good afternoon, all.

22 Counsel for Patent Owner UCB, would you
23 kindly identify yourself and any colleagues with
24 you.

25 MR. COUNIHAN: Yes. Good afternoon, your

1 Honors. This is Robert Counihan of Fenwick &
2 West. With me on the phone from Fenwick are James
3 Trainor and Erica Sutter, and from UCB are
4 Stephane Drouin and Amanda Blanchard.

5 JUDGE POLLOCK: Good afternoon. I
6 understand the parties have set forth motions to
7 exclude, motions to seal, and lodged objections to
8 each other's demonstratives. We will not rule on
9 the motions today but will address them in our
10 final written decision to the extent necessary.

11 We also remind the parties that the
12 demonstratives are not evidence. We,
13 nevertheless, take your objections under
14 advisement.

15 As set forth in the scheduling order of
16 March 11th, 2020, each side has 60 minutes to
17 present its case. My colleagues and I will do our
18 best to keep track of time, but we suggest that
19 the parties do the same.

20 You are welcome but not required to argue
21 your motions and objections during your allotted
22 time. It may, however, be helpful if the parties
23 would touch on Dr. Niazi's credibility as was
24 raised in the motions practice.

25 There also seems to be some uncertainty
26 regarding whether the liquid pharmaceutical

1 composition of Claim 1 encompasses single and
2 multi-use parenteral formulations which, being liquid,
3 might appear reasonable.

4 It would be helpful if the parties explain
5 their understanding of the scope of Claim 1 and
6 the weight we should give to the prior art
7 directed to non-oral non-liquid formulations.

8 That said, counsel for petitioner, would you like to
9 reserve any time for rebuttal?

10 MR. MALIK: Yes, your Honor, 30 minutes.

11 JUDGE POLLOCK: Counsel for patent owner,
12 you may have the last word today if you wish.
13 Would you like to reserve any of your time?

14 MR. COUNIHAN: Yes, I'd like to reserve
15 15 minutes, your Honor.

16 JUDGE POLLOCK: Very good. We are looking
17 forward to your presentations today, but I would
18 like to cover a few more things before we begin.

19 On behalf of the board, we thank you for
20 your flexibility in participating in this all-
21 video hearing. Given that this is a departure
22 from our typical practice, I would first emphasize
23 that our primary concern is your right to be
24 heard. If at any time during the proceeding you
25 encounter technical or other difficulties that you
26 feel fundamentally undermine your ability to

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