

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APOTEX INC.
Petitioner,

v.

UCB BIOPHARMA SPRL,
Patent Owner.

Case IPR2019-00400
Patent 8,633,194

**PATENT OWNER'S RESPONSE TO PETITIONER'S OBJECTIONS TO
EVIDENCE**

Patent Owner UCB Biopharma Sprl (“Patent Owner”) submits the following in response to Petitioner Apotex Inc.’s (“Apotex”) Objections to Evidence (Paper 23), dated and served on October 21, 2019. Patent Owner reserves all rights to respond to Petitioner’s objections to Exhibits not specifically referenced below and to respond further to Petitioner’s objections to Exhibits that are referenced below.

Section 42.64(b)(1) requires that evidentiary objections “must identify the grounds for the objection with sufficient particularity to allow correction in the form of supplemental evidence.” 37 C.F.R. § 42.64(b)(1); 77 Fed. Reg. 48767 (Aug. 14, 2012). Petitioner’s objections, including its objections to Exhibits 2030 and 2031 under Federal Rules of Evidence 801 and/or 802, contain conclusory references to the Federal Rules of Evidence, and do not provide the required particularity.

All of Patent Owner’s Exhibits were cited by Patent Owner in its Response or by Patent Owner’s declarant, Dr. Sarfaraz K. Niazi, in his supporting declaration. As explained therein, none lack relevance under Federal Rules of Evidence 402 or 403. Petitioner’s relevance objections to Exhibits 2024, 2030, 2031 and paragraphs 6, 71-73, 191-193, and 196-197 of the Declaration of Dr. Sarfaraz K. Niazi (Exhibit 2034) mischaracterize the purpose of these Exhibits. Exhibits 2030 and 2031, and the related portions of Dr. Niazi’s declaration, demonstrate the difficulty of predicting antibacterial properties of chemical compounds, even after the priority date. Similarly, Exhibit 2024, and the related portions of Dr. Niazi’s declaration, are

presented to inform that preservatives are still today generally classified into six categories. *See* EX2034 at ¶ 56. Petitioner's expert, Dr. Laskar, previously agreed that these categories of preservatives were used in 2004. *See* EX2034 at ¶ 56; EX2010 43:2-44:1. Exhibits 2024, 2030, and 2031 were not presented as prior art.

Patent Owner reserves all rights to respond to any further explanations Petitioner is allowed to provide regarding its evidentiary objections.

Dated: November 4, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on November 4, 2019, the foregoing document is being served by filing this document through the Patent Trial and Appeal Board End to End System, as well as by delivering a copy via electronic mail upon the following counsel of record for the Petitioner:

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Respectfully submitted,

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