

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAWAI USA, INC. AND SAWAI PHARMACEUTICAL CO. LTD.,  
Petitioners

v.

BIOGEN MA INC.,  
Patent Owner.

IPR2019-00789

U.S. Patent No. 8,399,514

Henderson Legal Services. Inc.

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May 14, 2019  
3:01 p.m. EST

Telephonic proceedings, held before  
Administrative Patent Judges, Sheridan Snedden,  
Jackie Harlow, and Jennifer Chagnon, before  
Carrie LaMontagne, a Certified Court Reporter for the  
State of California.

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17                                    MARK FELDSTEIN, ESQ.

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1 JUDGE SNEDDEN: Good afternoon. This the  
2 Judge Snedden. I have with me on the line Judges  
3 Harlow and Chagnon. This is a teleconference for  
4 IPR2019-00789.

5 Who do I have on the line for Patent Owner?

6 MS. McCURDY: Good afternoon, Your Honors.  
7 We also have a court reporter on the line.

8 But let me introduce myself. It's  
9 Barbara McCurdy for Biogen, Patent Owner, and also  
10 Mark Feldstein, both of Finnegan Henderson.

11 JUDGE SNEDDEN: Who do I have on the line  
12 for Patent Owner?

13 MS. McCURDY: That was Patent Owner,  
14 Barbara McCurdy.

15 JUDGE SNEDDEN: Petitioner.

16 MR. FERENC: Good afternoon, Your Honors.  
17 This is Chris Ferenc from Katten Muchin Rosenman on  
18 behalf of the Sawai petitioners.

19 JUDGE SNEDDEN: Can I have your name one  
20 more time.

21 MR. FERENC: Sure. Christopher, last name  
22 Ferenc, of Katten Muchin Rosenman.

23 JUDGE SNEDDEN: Ms. McCurdy, you'll file a  
24 copy of the transcript following this call?

25 MS. McCURDY: Yes, we will.

1 JUDGE SNEDDEN: All right. Ms. McCurdy, I  
2 think you requested this call. I'll let you begin.

3 MS. McCURDY: Yes. Thank you.

4 We requested this call to seek authorization to  
5 file a sur-reply to which the petitioner does not  
6 object but sought limitations. So we would like to  
7 file a sur-reply that's longer than they have agreed  
8 to and that addresses all the issues raised by their  
9 reply. So there's not an opposition with respect to  
10 a sur-reply, but just really the length and scope of  
11 it.

12 In particular we would like to reply to two  
13 things. One, there was a declaration included in the  
14 reply paper on the motion for joinder that we should  
15 be able to respond to in the sur-reply really without  
16 limitation.

17 And secondly, they raise a new argument that was  
18 not in their original petitioner motion for joinder  
19 that we would like to address, and that's  
20 specifically changing this reliance upon the basis  
21 for their petition, which is the expert testimony of  
22 different witnesses than are relied upon by Mylan,  
23 wholly different expert witnesses because they do not  
24 have the agreement of Mylan and apparently did not  
25 seek the agreement of Mylan to rely upon their

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