

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ARGENTUM PHARMACEUTICALS LLC

Petitioner

v.

CIPLA LIMITED

Patent Owner

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Case No. IPR2017-00807

U.S. Patent No. 8,168,620

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**DECLARATION OF JOHN C. JAROSZ**

***Mail Stop "PATENT BOARD"***  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

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I, John C. Jarosz, do hereby declare, under penalty of perjury, as follows:

**I. INTRODUCTION**

1. I am over the age of eighteen (18) and otherwise competent to make this declaration.

**A. Assignment**

2. I and my firm have been retained by Cipla, Ltd. (“Cipla”) to provide expert analysis and testimony, if necessary, in connection with the above captioned *inter partes* review proceeding. I understand that certain claims of U.S. Patent No. 8,168,620 (“the ’620 Patent”)—claims 1, 4-6, 24-26, 29, 42-44 (“the challenged claims”)—have been challenged as being unpatentable by Argentum Pharmaceuticals LLC. (“Argentum”) on the ground that those claims are obvious.

3. I have been asked by counsel for Cipla to assess whether 1) Mylan Specialty LP’s (“Mylan’s”) Dymista<sup>®</sup> (“Dymista”) commercial product in the U.S.<sup>1</sup>, 2) Cipla’s Duonase (“Duonase”) commercial product in India, and 3) a number of imitator products launched by Cipla’s competitors in India

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<sup>1</sup> As stated below, Mylan’s predecessor-in-interest to the Dymista<sup>®</sup> product was Meda Pharmaceuticals, Inc. (“Meda”).

(“Imitator Products”) are marketplace successes, and whether their success is attributable to the inventions described in the challenged claims of the ’620 Patent.

4. Based upon my review of the available evidence, it is my opinion that Dymista® and Duonase (and its imitator products) are marketplace successes, and that the success of these products is due, in large part, to the benefits and advantages of the challenged claims. As a result, the challenged claims of the patent at issue have been a commercial success.

**B. Qualifications**

5. I am a Managing Principal of Analysis Group, Inc. (“AG”) and Director of the firm’s Washington, D.C. office. AG is an economic, financial, strategy, and healthcare consulting firm with offices in Beijing, China; Boston, MA; Chicago, IL; Dallas, TX; Denver, CO; Los Angeles, Menlo Park, and San Francisco, CA; Montreal, Canada; New York, NY; and Washington, DC. AG provides research and analysis in a variety of business, litigation, and regulatory settings.
6. I received my B.A. in Economics and Organizational Communications, *summa cum laude*, from Creighton University in Omaha, Nebraska. Thereafter, I was a fellowship student in the Ph.D. program in

Economics at Washington University in St. Louis, Missouri. I completed most of the requirements for my Ph.D., but left before finishing my degree. I ultimately was awarded an M.A. in Economics. I worked for some period after that and then enrolled in law school at the University of Wisconsin in Madison, Wisconsin, from which I received a J.D. I am a member of the State Bar of Wisconsin, but have been on inactive status for the past 32 years.

7. I have spent my entire professional career as a practicing economist. Almost all of my work has involved evaluating the economics of intellectual property (“IP”) protection. The bulk of that work has dealt with issues of damages estimation, commercial success, FRAND compliance, irreparable harm, and allegations of antitrust violations. I have testified in hundreds of such matters.
8. Among other things, I have published articles in academic and professional journals, edited a treatise on IP licensing, given presentations and speeches to a wide variety of groups, and taught classes at various law schools.
9. Though my firm and I have been engaged in a wide range of industries, the largest amount of my work has been in pharmaceutical

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