

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GLAXOSMITHKLINE CONSUMER HEALTHCARE HOLDINGS (US) LLC,
Petitioner

v.

CIPLA LTD.,
Patent Owner

Case No. 2020-00368
U.S. Patent No. 8,163,723

DECLARATION OF KELLEY HAYES GREENHILL

I. Introduction

1. I have prepared this Declaration in connection with the Petition of GlaxoSmithKline Consumer Healthcare Holdings (US) LLC (“Petitioner”) for an *inter partes* review of U.S. Patent No. 8,163,723 (“the ’723 patent”), which I understand will be filed concurrently with this Declaration. I also understand that June 14, 2002 is the purported priority date for the ’723 patent.

2. I am currently the Manager of Research & Information Services at Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, 901 New York Avenue, NW, Washington, DC 20001-4413.

3. I am over eighteen years of age and am competent to make this Declaration. I make this Declaration based on my own personal knowledge and based on my knowledge of library science practices.

4. I earned a Master of Science in Library Science (“MSLS”) from the Catholic University of America in 1995, and a Bachelor of Arts in Political Science from Duquesne University in 1989. I have worked as a librarian for over twenty-five years. I have been employed in the Research & Information Services Department at Finnegan, Henderson, Farabow, Garrett & Dunner since 2019. Before that, from 1995-2015, I was employed in the Library Department of Sterne Kessler Goldstein & Fox. And from 2015-2019, I was employed in the Knowledge

and Research Services Group (formerly, Information Research Service) at Northrop Grumman Corporation.

5. I am a member of the American Association of Law Libraries and a member of the Law Librarians' Society of Washington, DC.

II. Standard Library Practice for Receiving, Cataloging, and Shelving Materials

6. I have knowledge of and experience with standard library practices regarding receipt, cataloging, and shelving of materials.

7. Based on standard library practice, when a library receives an item, it stamps the item with the library name and often with a date that is within a few days or weeks of receipt. The library will catalog the item within a matter of a few days or weeks of receiving it.

8. After an item is cataloged, the public may access the item by searching the catalog and requesting the item from the library. Standard library practice is to then shelve the item within a matter of a few days or weeks of cataloging it.

9. Given the matter of a few days or weeks between receiving an item and cataloging it, and the matter of a few days or weeks between cataloging an item and shelving it, the total time between receiving an item and shelving it is a matter of a couple of weeks or months.

10. The **United States Copyright Office**, a part of the Library of Congress, is the official U.S. government body that maintains records of copyright registration in the United States including a Copyright Catalog. These records are publicly accessible and are routinely used by copyright title searchers who are attempting to clear a chain of title for copyrighted works.

III. Opinion Regarding Individual Documents

A. 53rd Edition of Physician's Desk Reference (1999)

11. Ex. 1010 provides a true and correct copy of an excerpt of the 53rd Edition of the Physician's Desk Reference ("*PDR 1999*"), containing the labels for Flonase[®] and Astelin[®].

12. Ex. 1010 was obtained by the Research & Information Services Department of Finnegan from the Social Law Library, in Boston, Massachusetts in response to our request to the Social Law Library for copies of the Flonase[®] and Astelin[®] labels contained in the *PDR 1999*. I placed the request on December 19, 2019, through the Social Law Library's website. Appended to this declaration as Appendix A is a copy of bill received from the Social Law Library, which lists the date of the request in the top right hand corner and the text of request in the section titled "Order Description." (Appendix A.) The excerpt obtained from the Social Law Library includes the cover, public information page, and title page with a

stamp applied by the Social Law Library that reads “RECEIVED MAR 29, 2000.”

Appended to this declaration as Appendix B is a copy of the Social Law Library processing procedures regarding stamping. (Appendix B.)

13. Ex. 1010 is in a condition that creates no suspicion about its authenticity. Specifically, the text on each page appears to flow seamlessly from one page to the next and there are no visible alterations to the document. It was found within the custody of a library, the Social Law Library, a place where, if authentic, it would likely be found.

14. Ex. 1010 has a date stamp of March 29, 2000, which indicates the date that the *PDR 1999* was received and checked-in to the Social Law Library. Assuming at most a week for transfer to the shelf, the *PDR 1999* would have been physically available no later than the first week of April 2000, and thus both the Flonase[®] and Astelin[®] labels would have been available at that time.

15. Based on this evidence, it is my opinion that Ex. 1010 is an authentic document publicly accessible to and in actual use by researchers no later than the first week of April 2000.

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