

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUN PHARMACEUTICAL INDUSTRIES LTD.
Petitioner,

v.

MERCK SHARP & DOHME CORP.
Patent Owner.

Case IPR2020-01072
Patent No. 7,326,708

DECLARATION OF DR. STEVEN W. BALDWIN, PH.D.

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Submitted Electronically via the PTAB E2E System.

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I, Steven W. Baldwin, Ph.D., do hereby declare and state as follows:

1. I have been asked to provide testimony as to what one of ordinary skill in the art would have understood with respect to the patent at issue and various prior art discussed herein. I provide this testimony below:

I. INTRODUCTION

2. I am over the age of 18 and otherwise competent to make this Declaration.

3. I have been retained on behalf of Petitioner Sun Pharmaceutical Industries Ltd., for the above-captioned *inter partes* review (“IPR”). I am being compensated for my time in connection with this IPR at my standard consulting rate, which is \$500 per hour. My compensation does not depend in any way on the outcome of the IPR.

4. It is my understanding that the Petition for *Inter Partes* Review in this matter (the “Petition”) involves U.S. Patent No. 7,326,708 (“the ’708 patent”) (EX1001).

5. The ’708 patent names Stephen Howard Cypes, Alex Minhua Chen, Russell R. Ferlita, Karl Hansen, Ivan Lee, Vicky K. Vydra, and Robert M. Wenslow, Jr. as the purported inventors.

6. For the purposes of this declaration, I have been told to assume the relevant priority date of the ’708 patent is June 24, 2003—the filing date of U.S.

Provisional Application No. 60/482,161¹. I further understand that the '708 patent is assigned to Merck, Sharpe & Dohme Corp. (“Merck,” “Patentee,” or “Patent Owner”).

7. As explained below, it is my opinion that Claims 1-4, 17, 19, and 21-23 of the '708 patent² are anticipated or would have been obvious to the skilled artisan as of the time of the priority date of the '708 patent. Therefore, these claims are invalid.

¹ I have not been asked to analyze whether this is indeed the correct priority date but rather assume that it is for the purposes of my declaration. I understand that Patent Owner has recently contended that the priority date is earlier than June 24, 2003. EX1015, 10. I express no opinion at this time as to whether June 24, 2003 is, in fact, the correct priority date. However, should this become an issue during the proceeding, I may be called upon to offer my opinion.

² I have not been asked to express an opinion about any other claim of the '708 patent, nor do I express such opinion because I have not undertaken such an analysis.

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