

UNITED STATES PATENT AND TRADEMARK OFFICE

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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RIMFROST AS

Petitioner

v.

AKER BIOMARINE ANTARCTIC AS

Patent Owner

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Case: IPR2020-01534

U.S. Patent No. 10,010,567 B2

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**REPLY DECLARATION OF DR STEPHEN J. TALLON**

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DECLARATION OF DR STEPHEN J. TALLON

I make this declaration in support of Petitioner's Reply to Patent Owner's ("PO's") Response (Paper 9) to Petition in IPR2020-01534 ("POR").

BASIS FOR OPINION

1. I have reviewed the Declaration of Dr. Jacek Jaczynski, EX2001, ("Jaczynski Dec.") and accompanying exhibits, and disagree with his conclusions overall and as described in detail in the discussion below.
2. I have reviewed Patent Owner's Response to Petition, Paper No. 09, and disagree with the conclusions set forth therein and as described in detail in the discussion below.
3. I have reviewed the Deposition of Dr. Jacek Jaczynski, EX1170, from IPR2020-01532 and IPR2020-01533 ("Jaczynski Dep."). IPR2020-01532 and IPR2020-01533 were brought by Petition against PO's U.S. Patent Nos. 9,644,169 and 9,816,046, respectively. Like the U.S. Patent No. 10,010,567 ("the '567 patent"), they all claim priority by continuation applications to PO's U.S. Patent No. 9,375,453. See, Tallon Dec., EX1006 at ¶ 33.

4. Furthermore, after reviewing the foregoing, I hereby reaffirm my opinion from my earlier Declaration, EX1006, including that all claims of U.S. Patent 10,010,567 (“the ‘567 Patent”) would have been obvious to a POSITA in view of the prior art cited.

5. In forming my opinions, I have also relied on my own education, work experiences and knowledge, see my CV in my declaration, EX1006, the documents referenced in Appendix E to my declaration, EX1006.

6. PO notes (POR at 7) that I was provided with and used an older standard for claim construction in which claim terms are interpreted according to their “broadest reasonable construction in light of the specification”, rather than the *Phillips* claim construction standard which I have been informed requires “that claim construction begins with the ordinary and customary meanings of the terms used in the claims and that the meanings of terms used in the claims should be understood primarily in view of the intrinsic record, including the specification and file history”. I am aware of both claim construction standards and, in my opinion, my original claim construction remains the most appropriate claim construction under either standard.

**'567 PETITION GROUNDS**

7. The chart below summarizes my understanding of the grounds Petitioner is asserting for the invalidity of the '567 patent.

Ground	References	Basis	Claims Challenged
1	Sampalis I (EX1012) Bottino II (EX1038) Randolph (EX1011)	35 U.S.C. §103(a)	1-5, 7-11, 15-17
2	Sampalis I (EX1012) Bottino II (EX1038) Randolph (EX1011) Breivik II (EX1037)	35 U.S.C. §103(a)	6, 14, 20
3	Sampalis I (EX1012) Bottino II (EX1038) Randolph (EX1011) Bottino I (EX1007)	35 U.S.C. §103(a)	12, 18
4	Sampalis I (EX1012) Bottino II (EX1038) Randolph (EX1011) Fricke (EX1010) Yamaguchi (EX1162) Hardardottir (EX1164)	35 U.S.C. §103(a)	13, 19

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