

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC., CELLTRION, INC.,
and APOTEX INC.,
Petitioners

v.

REGENERON PHARMACEUTICALS, INC.
Patent Owner

Case IPR2021-00880¹
Patent 9,669,069 B2

Case IPR2021-00881
Patent 9,254,338 B2

EXPERT DECLARATION OF DAVID M. BROWN, M.D.

¹ IPR2022-00257, IPR2022-00258, IPR2022-00298, and IPR2022-00301 have been joined with this proceeding.

Mylan v. Regeneron
IPR2021-00880
U.S. Pat. 9,669,069
Exhibit 2050

TABLE OF CONTENTS

Page No.

Contents

I.	Introduction.....	1
II.	Qualifications and Experience.....	2
III.	Summary of Opinions.....	4
IV.	The Person of Ordinary Skill in the Art	5
V.	Legal Standards	6
	A. Burden of Proof.....	6
	B. Obviousness.....	6
	C. Anticipation	8
VI.	The State Of The Art	8
	A. The Prior Art Treatment of Angiogenic Eye Disorders with Anti-VEGF Therapies.....	8
	B. The Need for an Extended Dosing Regimen.....	17
	C. Extended Dosing Failures in the Prior Art.....	18
VII.	Clinical Testing And Approval Of Eylea®	32
	A. CLEAR-IT 2.....	34
	B. VIEW 1 and VIEW 2	35
	C. Approval of Eylea®	43
VIII.	The '338 Patent	44
	A. The Claimed Invention.....	44
	B. Claim Construction	46
	1. “A method for treating an angiogenic eye disorder in a patient”	46
	2. “tertiary dose”	47

IX.	The '069 Patent.....	47
X.	'338 Patent, Ground 6: The Challenged claims are not Obvious Based on Dixon.....	49
	A. The POSA Would Not Have Had a Reasonable Expectation of Success That the Claimed Q8 Dosing Regimen Would Be Effective Until After Regeneron's VIEW Trials.	49
	1. Failures to Achieve an Extended Dosing Regimen in the Art Would Have Led the POSA to Be Skeptical About the Disclosed Q8 Dosing Regimen.....	50
	2. The Fact That Regeneron Initiated Phase 3 Testing Would Not Have Provided the POSA with a Reasonable Expectation of Success.	51
	3. The Results of CLEAR-IT 2 Would Not Have Provided the POSA With a Reasonable Expectation of Success.....	55
	4. Dixon Cautioned That the Most Effective Dosing Regimen Was Not Established.	61
XI.	'069 Patent, Ground 4: The Challenged Claims Are not anticipated or obvious Based on VIEW 1/VIEW 2 as Disclosed In Dixon.....	62
	A. The VIEW 8-Week Dosing Regimen is Fixed, Not As-Needed / <i>Pro Re Nata</i> (PRN).....	62
	B. The POSA Would Not Have Been Motivated to Replace VIEW's 8-Week Fixed Dosing Regimen with PRN Dosing.	62
XII.	'069 Patent, Ground 5: The Challenged Claims Are not obvious Based on HEIER-2009 In View Of Mitchell Or Dixon.	67
XIII.	Objective Indicia Of Non-Obviousness.....	74
	A. Long-Felt Need for an Extended Dosing Regimen.....	74
	B. Satisfaction of a Long-Felt Need	77
	C. Failure of Others to Achieve an Extended Dosing Regimen	79
	1. Lucentis (ranibizumab)	79
	2. Macugen.....	81
	3. Conbercept	83

D. Unexpected Benefits84
E. Industry Praise and Recognition86

I, Dr. David Brown, declare as follows:

I. INTRODUCTION

1. I have been retained by counsel for Regeneron Pharmaceuticals, Inc. (“Regeneron”) as a technical expert in connection with the above-captioned proceeding. I have been asked to provide my opinions and views on the materials I have reviewed in relation to the Petition for *Inter Partes* review of U.S. Patent No. 9,254,338 (“the ’338 Patent”) (Ex. 1001)² and the Petition for *Inter Partes* review of U.S. Patent No. 9,669,069 (“the ’069 Patent”) (Ex. 1019). In particular, I have been asked to comment on the state of the art as of the earliest filing date (“priority date”) of the ’338 and ’069 Patents and to respond to the opinion and views of Petitioner’s declarant, Thomas A. Albin, M.D. I submit this declaration in support of Regeneron’s Patent Owner Responses (“PORs”).

2. I am being paid at my usual and customary rate for my work on this matter. I have no personal or financial stake in, or affiliation with, the petitioner, real-parties-in-interest, or the patent owner. My compensation is not dependent upon the outcome of, or my testimony in, the present proceeding.

² Unless otherwise noted, all citations to exhibits refer to exhibits filed in IPR2021-00881, and all pin cites refer to the stamped exhibit page.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.