

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.

Inter Partes Review No.: IPR2021-00880

U.S. Patent No. 9,669,069 B2

Filed: December 17, 2015

Issued: June 6, 2017

Inventor: George D. Yancopoulos

Title: USE OF A VEGF ANTAGONIST TO TREAT
ANGIOGENIC EYE DISORDERS

PETITIONER'S REPLY

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	PERSON OF ORDINARY SKILL IN THE ART (“POSA”).....	2
III.	CLAIM CONSTRUCTION.....	4
IV.	PETITIONER’S REFERENCES ANTICIPATE CLAIMS 1 AND 9-12.....	7
	A. VEGF TRAP-EYE/AFLIBERCEPT PRN ADMINISTRATION WAS EXPRESSLY DISCLOSED IN PETITIONER’S ASSERTED REFERENCES.....	7
	B. THE VEGF TRAP-EYE/AFLIBERCEPT SEQUENCE WAS INHERENTLY DISCLOSED IN EACH OF PETITIONER’S ASSERTED REFERENCES.....	7
	1. The VEGF Trap-Eye/Aflibercept sequence is in the prior art.....	7
	C. THERE WAS NO CONFUSION IN THE PRIOR ART ABOUT THE IDENTITY OF VEGF TRAP-EYE/AFLIBERCEPT.....	10
	1. “VEGF Trap-Eye” and “aflibercept” were known to have the same molecular structure.....	10
	2. “VEGF Trap-Eye” and “aflibercept” molecular weight reports were, in fact, <i>consistent</i>	11
	3. VEGF Trap-Eye is not a genus of proteins.....	13
	4. Flt1D2.Fll1D3.FcΔC1(a) was not, and would not be, confused with VEGF Trap-Eye.....	16
	5. PO’s confidentiality claims are irrelevant.....	16
V.	GROUND 4: DIXON ANTICIPATES AND/OR RENDERS OBVIOUS CLAIMS 1 AND 8-12.....	18
	A. PO SECURED ALLOWANCE BY EQUATING THE CLAIMS TO ITS 2Q8 VIEW REGIMEN.....	18

B.	CLAIMS 1 AND 8-12 ARE ANTICIPATED AND/OR OBVIOUS OVER THE PRIOR ART VIEW 2Q8 DOSING ARM.	20
VI.	GROUND 5: THE CLAIMS ARE RENDERED OBVIOUS BY THE VEGF TRAP-EYE/AFLIBERCEPT CLINICAL TRIALS AND PRIOR ART PRN REGIMENS.	24
A.	VEGF TRAP-EYE WAS IDENTIFIED IN THE PRIOR ART.	24
B.	MOTIVATION TO REDUCE TOTAL NUMBER OF INJECTIONS.	25
C.	PO’S REBUTTAL ARGUMENTS LACK MERIT AND IGNORE THE PREVAILING PRACTICE IN ANTI-VEGF THERAPY.	31
VII.	CONCLUSION.	37

TABLE OF AUTHORITIES

Cases

<i>Abbott Lab'ys v. Geneva Pharms., Inc.</i> , 182 F.3d 1315 (Fed. Cir. 1999)	9
<i>Al-Site Corp. v. VSI Int'l Inc.</i> , 174 F.3d 1308 (Fed. Cir. 1999)	2
<i>Amgen, Inc. v. Alexion Pharms., Inc.</i> , IPR2019-00740, Paper 15 (P.T.A.B. Aug. 30, 2019)	17
<i>Cisco Sys., Inc. v. C-Cation Techs., LLC</i> , IPR2014-00454, Paper 12 (P.T.A.B. Aug. 29, 2014)	5
<i>DeSilva v. DiLeonardi</i> , 181 F.3d 865 (7th Cir. 1999)	5
<i>Ex Parte Urban Weber</i> , Appeal 2020-005142, 2021 WL 4319420 (P.T.A.B Sept. 21, 2021)	9
<i>Honeywell Int'l Inc. v. Universal Avionics Sys. Corp.</i> , 488 F.3d 982 (Fed. Cir. 2007)	20
<i>Hospira, Inc. v. Fresenius Kabi USA, LLC</i> , 946 F.3d 1322 (Fed. Cir. 2020)	8
<i>HVLPO2, LLC v. Oxygen Frog, LLC</i> , 949 F.3d 685 (Fed. Cir. 2020)	2, 3
<i>In re Baxter Travenol Labs.</i> , 952 F.2d 388 (Fed. Cir. 1991)	9
<i>In re Fulton</i> , 391 F.3d 1195 (Fed. Cir. 2004)	36
<i>In re Omeprazole Patent Litig.</i> , 483 F.3d 1364 (Fed. Cir. 2007)	9

<i>King Pharms., Inc. v. Eon Labs, Inc.</i> , 616 F.3d 1267 (Fed. Cir. 2010)	6
<i>KSR Int'l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007)	2
<i>Microsoft Corp. v. Multi-Tech Sys., Inc.</i> , 357 F.3d 1340 (Fed. Cir. 2004)	19
<i>Minn. Mining Mfg. Co. v. Fellowes Mfg. Co.</i> , 76 F. Supp. 2d 972 (D. Minn. 1999)	18
<i>Monsanto Tech. LLC v. E.I. DuPont de Nemours & Co.</i> , 878 F.3d 1336 (Fed. Cir. 2018)	8
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005)	4
<i>Ryko Mfg. Co. v. Nu-Star, Inc.</i> , 950 F.2d 714 (Fed. Cir. 1991)	2
<i>Samsung Elecs. Co. v. Elm 3DS Innovations, LLC</i> , 925 F.3d 1373 (Fed. Cir. 2019)	5
<i>Schering Corp. v. Geneva Pharms.</i> , 339 F.3d 1373 (Fed. Cir. 2003)	8
<i>Senmed, Inc. v. Richard-Allan Med. Indus.</i> , 888 F.2d 815 (Fed. Cir. 1989)	18
<i>Toro Co. v. Deere & Co.</i> , 355 F.3d 1313 (Fed. Cir. 2004)	8
<i>Trane U.S. Inc. v. Semco, LLC</i> , IPR2018-00514, Paper 36 (P.T.A.B. April 17, 2019)	5
<i>Typhoon Touch Techs. v. Dell, Inc.</i> , 659 F.3d 1376 (Fed. Cir. 2011)	18

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.