

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SLAYBACK PHARMA LLC

Petitioner

v.

EYE THERAPIES LLC

Patent Owner

Case No. IPR2022-00142

U.S. Patent No. 8,293,742

PETITIONER'S OBJECTIONS TO PRE-INSTITUTION EXHIBITS

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Slayback Pharma LLC (“Petitioner”) objects to the admissibility of the following exhibits filed by Patent Owner pre-institution in the above-captioned inter partes review.

Petitioner’s objections are timely under 37 C.F.R. § 42.64(b)(1) because they are being filed and served within ten business days of the institution of trial in this matter on May 18, 2022. (Paper No. 13) Petitioner’s objections provide notice to Patent Owner that Petitioner may move to exclude these exhibits under 37 C.F.R. § 42.64(c).

In this Paper, objection “A” is for authenticity.

In this Paper, objection “R” is for lack of relevance.

Petitioner’s objections to Patent Owner’s exhibits for hearsay (“H”) apply to the extent Patent Owner seeks to rely on such exhibits for the truth of any matters stated in such exhibits.

Exhibit descriptions provided in the following table are taken from Patent Owner’s Preliminary Response Exhibit List and are used for identification purposes only. Petitioner’s use of Patent Owner’s descriptions does not indicate that Petitioner agrees with Patent Owner’s descriptions or any other characterizations of such exhibits.

OBJECTIONS

Exhibit	Description	Objection
2001	<i>Bausch & Lomb, Inc., et al. v. Slayback Pharma LLC, et al.</i> , C.A. 21-16766 (D.N.J.), Joint Discovery Plan submitted Feb. 3, 2022	R
2002	<i>Bausch & Lomb, Inc., et al. v. Slayback Pharma LLC, et al.</i> , C.A. 21-16766 (D.N.J.), Defendants' First Set of Requests for Production to Plaintiffs Nos. 1-2 served on Dec. 29, 2021	R
2003	<i>Bausch & Lomb, Inc., et al. v. Slayback Pharma LLC, et al.</i> , C.A. 21-16766 (D.N.J.), ECF No. 15, Scheduling Order signed by the Honorable Douglas E. Arpert, U.S.M.J. on Feb. 15, 2022	R
2004	<i>Bausch & Lomb, Inc., et al. v. Slayback Pharma LLC, et al.</i> , C.A. 21-16766 (D.N.J.), ECF No. 11, Order Setting the Initial Scheduling Conference dated Dec. 15, 2021	R
2006	<i>Bausch & Lomb, Inc., et al. v. Slayback Pharma LLC, et al.</i> , C.A. 21-16766 (D.N.J.), ECF No. 1, Complaint for Patent Infringement filed Sept. 10, 2021	R, H
2011	Press Release, "New Survey From Bausch + Lomb and Glaucoma Research Foundation Reveals Emotional and Social Impact of Hyperemia on Glaucoma Patients" (Jan. 4, 2022), https://www.bausch.com/our-company/recent-news/artmid/11336/articleid/683	R, H, A
2016	Drugs@ FDA Approved Drug Information, Alphagan 0.5%, https://www.accessdata.fda.gov/scripts/cder/daf/index.cfm?event=overview.process&ApplNo=020490	R, H A
2017	Drugs@ FDA Approved Drug Information, Alphagan 0.15%, https://www.accessdata.fda.gov/scripts/cder/daf/index.cfm?event=overview.process&ApplNo=021262	R, H, A
2018	Press Release, "Allergan to focus on Alphagan-P, discontinue Alphagan (July 8, 2002), https://www.healio.com/news/ophthalmology/20120331/allergan-to-focus-on-alphagan-p-discontinue-alphagan	R, H, A

2019	Alphagan P (brimonidine tartrate ophthalmic solution) 0.1%, Approval Letter (Aug. 19, 2005)	R, H
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Respectfully submitted,

June 2, 2022

/s/ Louis H. Weinstein

Louis H. Weinstein

Reg. No. 45,205

*Counsel for Petitioner Slayback
Pharma LLC*

CERTIFICATE OF SERVICE

I, Louis H. Weinstein, certify that I caused to be served a true and correct copy of the foregoing **PETITIONER'S OBJECTIONS TO PRE-INSTITUTION EXHIBITS** by email, as follows:

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June 2, 2022

/s/ Louis H. Weinstein

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