

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

**EXPERT DECLARATION OF IVAN T. HOFMANN
IN SUPPORT OF PETITIONER REPLY**

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I, Ivan T. Hofmann, hereby declare as follows.

I. INTRODUCTION

1. I am over the age of eighteen and am competent to make this declaration.

2. I have been retained as an independent expert on behalf of Petitioner Slayback Pharma, LLC (“Slayback”) to provide economic analysis in the above-captioned IPR.

3. I understand that this IPR involves U.S. Patent No. 8,293,742 B2 (the “’742 Patent”). The ’742 Patent is entitled “Preferential Vasoconstriction Compositions and Methods of Use” and issued on October 23, 2012.¹ I understand that the ’742 Patent claims priority to a provisional application filed on August 1, 2008 and the ’742 Patent expires on July 14, 2030.² I understand that according to United States Patent and Trademark Office (“USPTO”) records, the ’742 Patent is

¹ EX 1001 (’742 Patent).

² EX 1001 (’742 Patent); and EX 2079

(<https://www.accessdata.fda.gov/scripts/cder/ob/index.cfm>, accessed November 17, 2022).

assigned to Eye Therapies, LLC (“Eye Therapies”).³ I understand that claims 1-6 of the ’742 Patent relate to compositions and methods for using ocular drops containing a certain concentration range of brimonidine as the vasoconstrictor compound to reduce eye redness.⁴

4. I have been asked to review and respond to the Declaration of John C. Jarosz, dated August 26, 2022 (the “Jarosz Declaration”) as it relates to purported commercial success and nexus with respect to Lumify[®] (brimonidine) and the challenged claims of the ’742 Patent.^{5, 6}

³ EX 1001 (’742 Patent) and EX 1067

(<https://assignment.uspto.gov/patent/index.html#/patent/search/resultFilter?searchInput=8293742>, accessed December 2, 2022).

⁴ EX 1003 (Declaration of Paul A. Laskar, Ph.D., dated November 4, 2021 (the “Laskar Declaration”), pars. 30, 44-47, and 51b) and EX 1002 (Declaration of Neal A. Sher, M.D., FACS, dated November 4, 2021 (the “Sher Declaration”), par. 27).

⁵ EX 2024 (Jarosz Declaration), par. 13.

⁶ I understand that Petitioner has challenged claims 1-6 of the ’742 Patent (Paper 13 - Decision Granting Institution of *Inter Partes* Review 35 U.S.C. 314, 37 C.F.R. 42.4, pg. 2).

5. My company, Gleason IP (“Gleason”), is being compensated for the work performed on this engagement based on the time incurred by me at a rate of \$535 per hour. Our compensation is not affected by the outcome of this matter.

II. QUALIFICATIONS AND EXPERIENCE

6. I am a Vice President and Managing Director at Gleason. Gleason is an economic, accounting, and financial consulting firm. I am the leader of the Intellectual Property Practice. Prior to joining Gleason, I worked for the global firm of Deloitte.

7. I graduated *magna cum laude* from the University of Notre Dame with a Bachelor of Business Administration degree and a double major in Economics and Accounting. I am a Certified Public Accountant (“CPA”). I am also Certified in Financial Forensics (“CFF”). I am a member of the Licensing Executives Society (“LES”) and have received my Certified Licensing Professional (“CLP”) designation, which is granted by the LES to professionals with demonstrated knowledge and experience in the areas of intellectual property and licensing. I am also a member of the American Economic Association. I have attended and instructed numerous continuing education seminars since the completion of my formal education and have been a speaker on numerous occasions on a variety of financial, economic, accounting, and valuation topics. I have presented to various

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