

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HOPEWELL PHARMA VENTURES, INC.,
Petitioner,

v.

MERCK SERONO SA,
Patent Owner.

Case IPR2023-00480
U.S. Patent No. 7,713,947

PATENT OWNER'S OBJECTIONS TO EVIDENCE

PURSUANT TO 37 C.F.R. § 42.64

Pursuant to 37 C.F.R. § 42.64, Patent Owner submits the following objections to evidence served with the Petition for *inter partes* review (“Petition”). Patent Owner’s objections apply equally to Petitioner’s reliance on these exhibits in any subsequently filed documents. These objections are timely, having been filed within ten business days of the Institution Decision (September 22, 2023).

Exhibit 1002 (Declaration of Aaron Miller, Ph.D.).

Patent Owner objects to exhibit 1002 as misleading, incomplete, and lacking relevance and because any probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the fact finder, undue delay, and/or wasting time. *See* Fed. R. Evid. 106, 401, 402, and 403. In particular, Patent Owner objects to:

- ¶¶ 14-16, 19-30, 32-38, 43-49, 51-59, 61-63, 71, 77, 92, 96, 104, 106, 109, 115, 119-120, 122-123, 125-126, 129-130, 133-134, 136-137, and 139-141 as misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited;
- ¶¶ 64-66 and 68-70 as misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and improperly characterize the teachings of the '947 patent;
- ¶¶ 17-18, 31, 39-42, 50, 60, 78-91, 93-95, 97-103, 105, 107-108, 110-114, 116-118, 121, 124, 127-128, 131-132, 135, and 138 as

misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and improperly characterize the teachings of Bodor and Stelmasiak.

Patent Owner further objects to ¶¶ 20-66, 68-71, and 77-141 as not being based on sufficient facts or data, the product of reliable principles and methods, and/or does not reflect a reliable application of the principles and methods to the facts. *See* Fed. R. Evid. 702, 703.

Patent Owner further objects to ¶¶ 1-13, 19, 23, 25, 29, 50-52, 62-63, 67-68, and 71-76 because these paragraphs are not directly cited in the Petition and the relevance of these paragraphs is not apparent. *See* Fed. R. Evid. 401, 402.

Patent Owner further objects to pages 91-93 because the chart therein is not directly cited in the Petition and the relevance of these pages is not apparent. *See* Fed. R. Evid. 401, 402.

Patent Owner further objects to ¶¶ 4, 15, 17, 25, 26, 34, 38, 57, 59, 93, 95, 100, and 104, which contain citations to exhibits that are not cited in the Petition, as irrelevant. *See* Fed. R. Evid. 402.

Exhibits 1003, 1017, 1038, 1042, 1043, 1045, 1046, and 1049.

Patent Owner objects to exhibits 1003, 1017, 1038, 1042, 1043, 1045, 1046, and 1049 under Fed. R. Evid. 401, 402, and 403 as lacking relevance and because their probative value is substantially outweighed by the danger of unfair prejudice,

confusing the issues, misleading the fact finder, undue delay, and/or wasting time.

Patent Owner further objects to these exhibits under Fed. R. Evid. 401, 402

because the exhibits are not cited in the Petition.

To the extent exhibits 1003, 1017, 1038, 1042, 1043, 1045, 1046, and 1049 are being offered to prove the truth of the matter asserted, the exhibits constitute inadmissible hearsay.

Patent Owner further objects to exhibits 1003, 1017, 1038, 1042, 1043, 1045, 1046, and 1049 under Fed. R. Evid. 901 because the documents lack authentication.

Patent Owner further objects to any paragraph of exhibit 1002 to the extent it relies on exhibits 1003, 1017, 1038, 1042, 1043, 1045, 1046, or 1049 for at least the reasons identified here.

Exhibits 1030, 1033, and 1039.

Patent Owner objects to exhibits 1030, 1033, and 1039 under Fed. R. Evid. 401, 402, and 403 as lacking relevance and because their probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the fact finder, undue delay, and/or wasting time. Patent Owner further objects to these exhibits under Fed. R. Evid. 401, 402 because the exhibits are not cited in the Petition. Moreover, Patent Owner objects to these exhibits under Fed. R. Evid. 401, 402 because the exhibits are not cited in the Miller Declaration.

To the extent exhibits 1030, 1033, and 1039 are being offered to prove the truth of the matter asserted, the exhibits constitute inadmissible hearsay.

Patent Owner further objects to exhibits 1030 and 1039 under Fed. R. Evid. 901 because the documents lack authentication.

Exhibits 1004, 1006, 1007, 1008, 1009, 1010, 1012, 1013, 1014, 1018, 1019, 1020, 1021, 1022, 1024, 1025, 1026, 1027, 1028, 1029, 1032, 1036, 1040, 1044, 1047, 1048, 1050, and 1051.

Patent Owner objects to exhibits 1004, 1006, 1007, 1008, 1009, 1010, 1012, 1013, 1014, 1018, 1019, 1020, 1021, 1022, 1024, 1025, 1026, 1027, 1028, 1029, 1032, 1036, 1040, 1044, 1047, 1048, 1050, and 1051 under Fed. R. Evid. 401, 402, and 403 as lacking relevance and because their probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the fact finder, undue delay, and/or wasting time.

To the extent exhibits 1006, 1007, 1008, 1009, 1010, 1012, 1013, 1014, 1018, 1019, 1020, 1021, 1022, 1024, 1026, 1036, 1040, 1044, 1047, 1048, and 1050 are being offered to prove the truth of the matter asserted, the exhibits constitute inadmissible hearsay.

Patent Owner further objects to exhibits 1006, 1007, 1008, 1009, 1010, 1012, 1013, 1014, 1018, 1019, 1020, 1021, 1036, 1040, 1044, 1047, 1048, and 1050 under Fed. R. Evid. 901 because the documents lack authentication.

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