

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

ALTAIRE PHARMACEUTICALS, INC.,  
Petitioner,

v.

PARAGON BIOTECK, INC.,  
Patent Owner.

---

Case PGR2015-00011  
Patent 8,859,623 B1

---

Held: July 12, 2016

---

BEFORE: ZHENYU YANG, CHRISTOPHER G. PAULRAJ,  
and SHERIDAN K. SNEDDEN, Administrative Patent Judges.

The above-entitled matter came on for hearing on Tuesday, July 12, 2016, commencing at 2:00 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Case PGR2015-00011  
Patent 8,859,623 B1

APPEARANCES:

ON BEHALF OF THE PETITIONER:

DIPU A. DOSHI, ESQUIRE  
JONATHAN W.S. ENGLAND, ESQUIRE  
Blank Rome, LLP  
1825 Eye Street, N.W.  
Washington, D.C. 20006

ON BEHALF OF PATENT OWNER:

MICHAEL ROSATO, ESQUIRE  
SONJA GERRARD, ESQUIRE  
Wilson, Sonsini, Goodrich & Rosati  
701 Fifth Avenue  
Suite 5100  
Seattle, Washington 98104-7036



1 identify the slide number so when we read the transcript, we  
2 know what we are talking about. And this goes with all the other  
3 papers and exhibits, if you pull up a paper, tell us what the paper  
4 number is, the Exhibit Number, the page number, line number,  
5 whatever is necessary.

6           One last but very important issue, that is please don't  
7 interrupt each other when the other party is presenting. If you,  
8 for whatever reason, have an objection, you can raise it during  
9 your own time. So patent owner, if you have any objection  
10 during petitioner's opening, do it during your response time. But  
11 if you have any objection during the reply time, you can just  
12 bring it up before we adjourn. And petitioner, you can raise your  
13 objection during your reply time.

14           So if there is no questions, petitioner, would you like to  
15 reserve any time for rebuttal?

16           MR. DOSHI: Yes, Your Honor. I would like to reserve  
17 15 minutes for rebuttal.

18           JUDGE YANG: So you may begin whenever you are  
19 ready.

20           MR. DOSHI: Thank you, Your Honor. I have hard  
21 copies of the demonstratives. Do you need those?

22           JUDGE YANG: Yes, that would be good.

23           MR. DOSHI: May it please the Board, good afternoon.  
24 My name is Dipu Doshi for petitioner, Altaire Pharmaceuticals,  
25 Inc. Along with me, as I said previously, Mark Bronson and John

1 England. I'll take you to slide 2 here. We are here to determine  
2 whether claims 1 through 13 of the '623 patent are unpatentable  
3 as obvious over Altaire's product. The petitioner submits that it  
4 has met its burden, it's met its burden by a preponderance of the  
5 evidence. The evidence is clear, it's well documented, it's  
6 compelling and in many instances it's uncontroverted.

7           The parties are no strangers. I have turned to slide 3.  
8 This is an agreement or excerpts of an agreement between  
9 Altaire, the petitioner, and Paragon, the patent owner. As you can  
10 see, the agreement was executed in 2011. The parties are still --  
11 are in a District Court dispute regarding the contract, but there is  
12 no pending patent infringement suit or declaratory judgment in  
13 the District Court proceedings. But the main point here is to  
14 understand that the parties are no strangers to one another. They  
15 have been working together and they continue to work together  
16 under this agreement. And as part of the agreement, petitioner  
17 would become the exclusive manufacturer and supplier of certain  
18 products that were covered by an NDA that were filed by -- the  
19 NDA was filed by patent owner, and the patent owner would  
20 become the exclusive marketing arm and distributor of those  
21 products. Down at the bottom of slide 3, you can see that the  
22 term is ten years from the date of the execution, which would put  
23 it at 2021.

24           So the Board may be asking why are we here if the  
25 parties are working together. Well, there's a District Court

# 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.